OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
DeLoach
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. Callahan

DATE: 8-18-65

FROM : C. R. Davidson

SUBJECT: AMERICAN CIVIL LIBERTIES UNION
(Bureau File 61-190)

The purpose of this memorandum is to record that Supervisor [redacted] of the Administrative Division on 8-18-65 received a circular letter from the New York Civil Liberties Union, a branch of the American Civil Liberties Union, soliciting membership and appropriate cash donations. From the addressograph plate utilized, it is obvious SA [redacted] address was obtained from a magazine publishing company as the address was one utilized when he moved from New York City in 1960. The reply envelope which was enclosed in the attached letter was returned to the New York Civil Liberties Union requesting that SA [redacted] name be removed from the mailing list.

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RECOMMENDATION:

None. For information.

Enclosures

RRB:crt
(3)

1 - Personnel File of SA [redacted]

REC-50 61-190-11288

3 AUG 23 1965

2 ENCLOSURE

EX-104

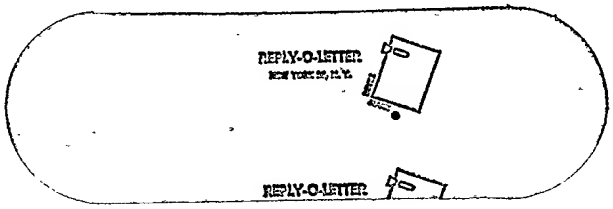
"ENCLOSURE ATTACHED"

66 AUG 30 1965

New York Civil Liberties Union NYCLU

The New York Branch of the American Civil Liberties Union

156 FIFTH AVENUE, NEW YORK, N.Y. 10010



Dear Fellow-New Yorker:

From time to time you may read newspaper stories reporting that:

- **Visitors to inmates of New York City jails must submit to fingerprinting.**
- **A 16-year-old boy is held to have intelligently waived his right to counsel in a felony case where he faced up to 30 years in prison.**
- **A man walking home at night on the street alongside a park is given a summons for "loitering" in the park after midnight.**
- **A city area is declared "off limits" for picketing by some groups while another group is allowed to assemble 2,000 persons in the identical area.**

But what can you do?

Join the New York Civil Liberties Union, the New York Branch of the ACLU, and you will join 12,000 New Yorkers (75,000 members across the country) in making your voice count! Read the enclosed leaflet and you will see how the Civil Liberties Union meets head-on the threats to the vital liberties of all Americans.

This spring, NYCLU won the cases listed above -- and many more. We also suffered some setbacks -- setbacks and not defeats, because as long as the fight for freedom is constantly waged it is never really lost.

With your help, we can do more and we can do better in New York and all across the nation.

Use the postpaid envelope above to join the New York Civil Liberties Union -- and thereby the ACLU -- now. I hope you will join as a $10 member, but join with whatever you can.

Sincerely,

Victor S. Gettner

Victor S. Gettner, Chairman
Board of Directors

ENCLOSURE 61-190-1128

REC 25 61-190 1129

August 27, 1965

[redacted] Informant

Salinas, California

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Dear [redacted]:

Your letter of August 21st has been received.

In response to your inquiry, I would like to point out that this Bureau is strictly an investigative agency of the Federal Government and, as such, neither makes evaluations nor draws conclusions as to the character or integrity of any organization, publication or individual. Therefore, I am sure you will understand why I cannot comment as you desire.

Enclosed is a copy of the list of organizations which have been cited as subversive by the Department of Justice of the United States pursuant to Executive Order 10450, in addition to some other material on the topic of communism which I trust will be of interest. You may also wish to secure a copy of "Guide to Subversive Organizations and Publications," prepared and released by the House Committee on Un-American Activities. In it are listed groups and periodicals which have been cited by various state and Federal agencies, and a copy of it can be purchased for seventy cents from the Superintendent of Documents, Government Printing Office, Washington, D. C. 20402.

MAILED 30
AUG 27 1965
FBI

Sincerely yours,
J. Edgar Hoover

Enclosures (3)
Attorney General's List of Subversive Organizations
Our Heritage of Greatness
Excerpt from FBI Appropriations Testimony, 3/4/65, on CP, USA
NOTE: There is no record of correspondent in Bufiles.

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55 SEP 3 1965

MAIL ROOM ☐ TELETYPE UNIT ☐

AUG 27 10 42 AM '65
REC'D-READING ROOM
FBI

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27

J. F. LOAD CO.
Salad Bowl Brand
P. O. BOX 657 PHONE 422-6479
SALINAS, CALIFORNIA
AGRICULTURAL CHEMICALS

August 21st. 1965

The Honorable J.Edgar Hoover
Federal Bureau of Investigation
Department of Justice
Washington D.C.

Dear Sir:

In a recent discussion concerning the American Civil Liberties Union, they were termed subversive, Communist dominated, and purported to be on your list of subversive organizations.

I am under the impression that they were termed subversive by the late Senator McCarthy, and that this charge was later proved incorrect. Would you settle this argument for us ? It would be most appreciated.

Respectfully yours

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[redacted]

JFS/h

REC 25

61 - 190 - 11129

18 AUG 30 1965

CORRESPONDENCE

ack 8/27/65
KLS:ejs

0-20 (Rev. 12-14-64)

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REC 65

Speiser is just shouting "Communist" smoke.

UPI-95

(OBSCENITY)

WASHINGTON--CONGRESS WAS WARNED TODAY THAT THE OBSCENITY COMMISSION IT IS THINKING OF CREATING COULD TURN OUT TO BE AN UNOFFICIAL NATIONAL CENSORSHIP BOARD.

LAWRENCE SPEISER, SPOKESMAN FOR THE AMERICAN CIVIL LIBERTIES UNION (ACLU), EXPRESSED HIS ORGANIZATION'S OPPOSITION TO A BILL THAT WOULD CREATE A COMMISSION TO STUDY WAYS OF COMBATTING SMUT.

SPEISER SAID INSTEAD OF ESTABLISHING A GROUP WITH THAT PURPOSE CONGRESS OUGHT TO AUTHORIZE A SCIENTIFIC STUDY TO DETERMINE ONCE AND FOR ALL WHAT -- IF ANY -- CONNECTION EXISTS BETWEEN ANTI-SOCIAL BEHAVIOR AND PORNOGRAPHY.

IN OTHER WORDS, ARE PEOPLE WHO READ SUCH MATERIAL MOVED TO COMMIT CRIMES.

THE LEGISLATION, HE TOLD A HOUSE EDUCATION SUBCOMMITTEE, ASSUMES THAT CERTAIN PRINTED MATTER HAS A "MORALLY CORROSIVE EFFECT" ON THOSE WHO SEE IT.

"THIS STATEMENT OF FACT," SPJISER SAID, "IS NOT SUPPORTED BY RELIABLE SCIENTIFIC STUDIES OF THIS PROBLEM." HE SAID ON THE CONTRARY, "THERE IS A GREAT DEAL OF CONFUSION AS TO WHETHER SUCH A CASUAL RELATIONSHIP EXISTS."

SPEISER SAID HE WAS AFRAID THAT THE COMMISSION, LIKE OTHERS BEFORE IT, WOULD GO "ASTRAY" AND START PUBLISHING "LISTS OF FORBIDDEN BOOKS" THAT SUPPOSEDLY WOULD BE USED FOR ADVISORY PURPOSES BY STATE AGENCIES.

"THE COMMISSION MAY, IN EFFECT, ESTABLISH A NATIONAL CENSORSHIP BOARD," SPEISER SAID.

THE WITNESS' CONCLUSIONS WERE DISPUTED BY REP. DOMINICK DANIELS, D-N.J., AUTHOR OF THE BILL, AND REP. JOHN DENT, D-PA., CHAIRMAN OF THE SUBCOMMITTEE CONSIDERING IT.

DANIELS ACCUSED SPEISER OF ACKNOWLEDGING THAT THERE WAS A PROBLEM OF INCREASED AVAILABILITY OF HARD-CORE PORNOGRAPHY BUT OF "OPPOSING EXAMINATION AND STUDY OF THE PROBLEM."

REC-65 61-198-1130

DENT SAID THE THRUST OF THE COMMISSION'S EFFORT WOULD BE DIRECTED AT KEEPING OBSCENE MATERIALS AWAY FROM MINORS.

EX-100

"IF SOMEONE OVER 21 WANTS TO BUY THIS TRASH," HE SAID, "THAT'S HIS BUSINESS."

18 SEP 22 1965

SPEISER REPLIED THAT THE COMMISSION WOULD STILL BE FACED WITH THE CONSTITUTIONAL DIFFICULTY OF DECIDING WHAT MATERIALS TO KEEP THEM FROM MINORS.

9/8--GE135P

NOT RECORDED
167 SEP 22 1965

59 SEP 23 1965

WASHINGTON CAPITAL NEWS SERVICE

61-140

Leibman, Williams, Bennett, Baird and Minow

208 SOUTH LA SALLE STREET · CHICAGO 4 · FINANCIAL 6-2200

CABLE ADDRESS "CROLEX CHICAGO"

September 20, 1965

BT

62-10757

Mr. William C. Sullivan
FBI Headquarters
Riddell Building
1730 K Street, N. W.
Washington 25, D. C.

Dear Bill:

In connection with my appearance at the American Civil Liberties Union, I am enclosing copies of various articles that have come to my attention. I felt you should have them in your files.

Warmest regards.

Sincerely,

[redacted]

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MIL:m
Encl

PERSONAL ~~AND CONFIDENTIAL~~

NOT RECORDED COPY FILED IN

1-190-7-1131

SEP 23 1965

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ENCLOSURE

70 OCT 4 1965

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ILLINOIS DIVISION
AMERICAN CIVIL LIBERTIES UNION
19 South LaSalle Street
ANdover 3-6883

SPECIAL MEETING ON

CIVIL DISOBEDIENCE
What part does it play in the democratic process?

WHEN: Tuesday, September 21, 1965

WHERE: Woodrow Wilson Room, 116 South Michigan Avenue

TIME: 8:00 P.M.

PARTICIPANTS

REV. JAMES BEVEL, Director of Community Organization and Direct Action, Southern Christian Leadership Conference
KALE A. WILLIAMS, Executive Director, Chicago Regional Office, American Friends Service Committee
EDGAR BERNHARD, ACLU Honorary Co-chairman and Board Member
MORRIS I. LEIBMAN, Attorney, Author of "Civil Disobedience: A Threat to our Law Society"
GEORGE PONTIKES, ACLU Board Member and Chairman, Subcommittee on Civil Disobedience

The purpose of this meeting is to help ACLU formulate its policy and attitudes toward civil disobedience.

BIBLIOGRAPHY

Lib-Soc Science

1. THE POWER OF NON-VIOLENCE by Richard B. Gregg - One of the few great classics on non-violence - $1.00

Lib-SS

2. CONQUEST OF VIOLENCE by Joan V. Bondurant - An approach to a philosophy of action suggested by the Gandhian experience in India - $5.00

AFSC→

3. NON-VIOLENT RESISTANCE by M. K. Gandhi - Collected writings on non-violent resistance by its best known practitioner - $1.95

ACLU→

4. HOW AMERICANS PROTEST published by the ACLU - This pamphlet establishes the strength of the protest tradition in America - $ .15

AFSC→

5. A MANUAL FOR DIRECT ACTION by G. Lakey and M. Oppenheimer, Quadrangle Books - This book is directed at people in civil rights activity. It is most valuable in showing how to make protest effective in achieving social change and what thinking goes into planning a campaign - $1.65

6. "Civil Disobedience: a threat to our law society" by Morris I. Leibman, Vital Speeches, v. 30, #24 (October 1, 1964), pp. 766-768. The only piece found which seriously said all civil disobedience is wrong

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Thoreau on "The Duty of Civil Disobedience" - A Peace News pamphlet - $ .25

61-140-1131

ENCLOSURE

On Civil Disobedience

REV. DR. ROBERT B. WATTS

(Dr. Watts was ordained in the Episcopal Diocese of Los Angeles in 1958. He is a Phi Beta Kappa graduate of the Yale Law School and former editor of the Yale Law [illegible]ew. He is former chief United States Attorney in New York, former special assistant to the United States Attorney General, a former general counsel for the NLRB, and a former vice president and director of General Dynamics Corporation. He has argued many cases before the United States Supreme Court.

The following is excerpted from a recent sermon by Dr. Watts in La Jolla, Cal.)

THERE HAS been advanced by various philosophical followers of the Rev. Martin Luther King Jr. one of the most extraordinary suggestions ever made in Anglo-Saxon or American legal annals.

DR. WATTS

As a mixture of sophistry and softheadedness, brewed by non-legal or corroded legal minds, I assert that this suggestion has spawned the present wave of destruction now sweeping the country.

* * *

IN BRIEF, this proposed doctrine is that if any citizen, after meditation, comes to the conclusion that any law is unjust — and further concludes that if apprehended he is willing to accept the penalty imposed for violation of the law —then it becomes morally justifiable to break the law openly and notoriously.

Of course, the worst thing about this doctrine is that again there are no dividing lines in it. If it is valid for a small violation, it applies equally to a more serious one.

The amazing thing is that many clergy of this church, including both priests and and brainwashed. We are afraid to speak out and let our voices be heard in demanding a return to law observance by all citizens — white, yellow, black, red, priest, bishop or missionary.

What shall we do? What may we do as Christians?

The answer is, I submit, that which not too long ago propelled a somewhat obscure New Englander into the Vice Presidency — from which he succeeded to the Presidency. Paraphrased only as to one word, his answer was, "There is no right to demonstrate against the public safety!"

And with that, Calvin Coolidge crushed a strike by the police in the city of Boston.

That ringing declaration electrified the country. It stopped short a vicious new idea. It was correct under our form of government.

* * *

NOW WE ARE face to face with a whirlwind largely fostered and encouraged by our vacillation, our attempt at appeasement and the participation of some of us in this new theory of morally justifiable lawlessness.

As our own Governor says, we now face insurrection—an attack upon the very existence of our government.

6-1-190-T-1131

ENCLOSURE

THE VILLAGER
Greenwich Village
July 8, 1965

I have a concern . . .

By MORRIS L. ERNST

Civilization is the victory of reason over force and law is the instrument to that end.

It is the misfortune of our Republic that we failed to adopt as a part of our folkway and jurisprudence those practices still firm in England from which our law sprang. I refer for example to the right to counsel, the trial of cases in courts and not on TV or in the newspapers, warnings to citizens on arrest not to talk until they have counsel, no lawyers retained on a contingency, no limit on the time allowed counsel and argument in appellate courts.

These and other processes of reason helped England maintain a police force without guns. The homogeneity of its population simplified the adoption of fair trial and due process, while in our Republic we were still seeking justice by the gun in our untamed West. All of which and more are bits of Anglo-Saxon history now debated in terms of a civilian Review Board for police departments in some of our oversized cities.

No one will defend or even attempt to rationalize the use of unnecessary force by police to extract confessions. Since in England there are no prosecution offices in our sense there is no pride in Prosecutors to publish statistics showing indictment and convictions. Such legal batting averages are taboo and unknown. There the old adage is still in force: The Crown Can't Win, the Crown Can't Lose—the Crown seeks Justice.

In our culture we can also recall how Whitman, Dewey and other prosecutors climbed to the governorship on the verdicts of guilty of highly publicized defendants. In a real sense the behavior of the District Attorneys sets the behavior patterns for the police.

Every once in a while, and thankfully it is mighty rare, we hear of undue force used by police—of course in the absence of counsel.

The total of all accusations compared to total arrests is seldom mentioned. As a youthful people we rush for popular and easy solutions—rather than to try the offending policeman represented by counsel, publish the actual facts of charges fake or valid, and thus try to deter the spread of the practice.

At the moment, in our city, we are debating an appeal board structure. I have spent a reasonable amount of time looking at the proposals and so far I find no proposal for a board of informed skilled men and women — with some background which would go beyond the test of good reputation, good will or political prowess. Little do the proponents realize that to sit as a judge in any search for truth requires a rare and precious type of mind, heart and emotions. Few are qualified.

At this moment I am not in favor of anyone of the various methods proposed for constituting such a board. Nor have I seen any calm, non-picket line appraisal of the effectiveness and honor of the present machinery. In fact even the recent judgment of a grand jury was not accepted by those propagandists who will in their revolutionary zeal refuse ever to accept any judgment but their own. If any finding of a grand jury is rejected out of hand then for those folk any review

board is little more than a new sounding board for easy rejection if the results are not to the liking of the protestants.

I still wait for one of our mass media to publish the facts, — not just numbers of complaints about undue use of force by the police — but also trend figures — in total and in comparison to total arrests. Also I would enjoy examining all facts that can be obtained as to the inadequacy of such figures because of reluctance of arrested persons or others to file public charges. Is the present process awkward for the public — expensive in time etc? Is our public talked out of filing complaints? What evidence — that is facts — is there that would lead one to believe we should superimpose over the Police Chief a board appointed by some other political office holder?

I am inclined to believe that if the present police appeal board is sheltering its own confreres, we should learn all the facts before seeking other remedies. Has anyone complained to the Mayor who appointed the Commissioner, has Wagner ever asked for the figures and facts to lead our public? How many suits have been filed against the city or the violating policeman? How many judgments over recent years have been granted to injured citizens?

Above all, has the Mayor received a report from his Corporation Counsel as to methods to simplify suits for damages or the use of other sanctions which might be employed?

The best law is that which is effective without being used. I would like to see if a revised machinery of civil suit might not avoid the disaster of a pattern for all executives in government to be faced with outside groups that can override them.

I reread and again enjoyed — *The Mind In the Making*, by James Harvey Robinson, published by Harper and Row, Publishers, Inc.

Civil Rights—Yes; Civil Disobedience—No (A reply to Dr. Martin Luther King)*

By Louis Waldman

(New York City)

In view of the importance and content of Mr. Waldman's article the Journal *and the New York State Bar Association are happy to authorize the reprinting by any other interested Bar Association of Mr. Waldman's address without further request. We recommend this article to all of our readers.*

Louis Waldman

ON Wednesday, April 21, 1965, Dr. Martin Luther King, Jr. addressed a meeting of the Association of the Bar of the City of New York on the subject "The Civil Rights Struggle in the United States Today." In that address Dr. King made a strong and eloquent plea for civil rights for our fellow citizens of the Negro race. He also dealt with another subject of far-reaching importance, not only to Negroes, but to every single American and to our nation as such, a subject on which he has spoken and written before: his program for civil disobedience as a means of achieving not only civil rights but to remedy all injustice.

In so far as Dr. King made a plea for Negro civil rights, I say with emphasis: Civil Rights—Yes. In so far, however, as Dr. King advocated civil disobedience, I say with equal emphasis: Civil Disobedience—No.

For myself, long before Dr. King was born, I espoused, and still espouse, the cause of civil rights for all people along with causes aimed at abolishing poverty and lifting the standards of working-men, regardless of race or color, to a higher level of civilized existence, and providing for equality before the law, human dignity, and social and economic justice. In my world we were, and are, color blind. I have never ceased believing in the rightness of these causes. I am happy to say that more and more Americans, not only in the profession of the law, but in every walk of life are enlisting in the realization of these dreams, which are at the heart of the American dream.

The nation's response, and the ever-growing support for civil

* Address delivered by Louis Waldman on Saturday, June 26, 1965, before the Summer Membership Meeting of the New York State Bar Association, at the Laurels Hotel, Monticello, New York.

rights for the Negro, is reflected by the actions of all three branches of our Federal Government, by the United States Supreme Court, beginning with *Brown* v. *Board of Education* in 1954, by the Executive, from the White House down, and by Congress' enactment of new legislation, a process continuing up to the present. And this, it should be recorded in the interest of truth, is also the fact in the overwhelming number of our states, going back many years.

But this must be proclaimed for all to remember: The unanimous decision in *Brown* v. *Board of Education*, which is the foundation for the progress made in the last 10 years, was not achieved by civil disobedience; sit-ins, lie-ins, or marches. On the contrary, it was achieved by reason and the appeal to traditional constitutional principles.

Now the rights of Negroes to enjoy the same civil rights as do other Americans, to equality before the law, to equal opportunity, to an education, to a job, to vote under a system of voter qualifications applied uniformly to all citizens, are all based on our constitutional system of government, and the laws enacted under the Constitution. Those who assert rights under the Constitution and the laws made thereunder must abide by that Constitution and the law, if that Constitution is to survive. They cannot pick and choose; they cannot say that they will abide by those laws which they think are just and refuse to abide by those laws which they think are unjust. And the same is true of decisions on constitutional principles.

The country, therefore, cannot accept Dr. King's doctrine that he and his followers will pick and choose, knowing that it is illegal to do so. I say, such doctrine is not only illegal and for that reason alone should be abandoned, but that it is also immoral, destructive of the principles of democratic government, and a danger to the very civil rights Dr. King seeks to promote.

Stripped of all pejorative rhetoric, what is this program of civil disobedience which Dr. King advocates? In his address on April 21st, Dr. King said the following:

> "Before I close I feel compelled to comment briefly on the oft-heard charge that we who urge non-cooperation with evil in the form of civil disobedience are equally lawless."

And, continuing, he said:

> ". . . the devotees of nonviolent action . . . feel a moral responsibility to obey just laws. But they recognize that there are also unjust laws."

Dr. King then performs intellectual acrobatics by jumping from the premise—that he and his "devotees," "recognize that there are also unjust laws"—to the asserted right to violate such laws "that conscience tells him is unjust," that is, in the sole judgment of the violator. He defines "an unjust law" as

> ". . . One in which people are required to obey a code that they had no part in making because they were denied the right to vote";

and also as being

> ". . . One in which the minority is compelled to observe a code that is not binding on the majority."

According to this logic, every person under 21 or the millions of non-citizens, all denied the right to vote, have no obligation to obey the law. Now, as to the minority logic. There are thousands of laws

throughout the land which apply only to minorities, and are "not binding on" the majorities. For example, we are all familiar with laws which provide that application is limited to "cities of 1,000,000 or more," or "cities of less than 100,000," or just "cities" as opposed to "towns" or "villages." We all know of laws that apply only to bankers, farmers, trade unions, manufacturers, sailors, or electricians, or other trades or groups, but do not apply to the great bulk of the rest of the nation, to the "majority." May all such laws be ignored by the affected minority because they do not bind the majority?

These glib generalizations in Dr. King's advocacy of civil disobedience are as bad as they are illogical. For, when literally applied by many of his followers, who do not have the sophistication and training of Dr. King, such shibboleths lead to an intellectual, religious, and moral justification for doing illegal acts of which violence and lawlessness are but the extreme expressions.

"In disobeying such unjust laws," continues Dr. King, "we do so peacefully, openly, and non-violently. Most important, we willingly accept the penalty, whatever it is."

Apparently Dr. King thinks that in violating laws "openly," he and his followers are more virtuous than those who violate laws secretly. As a matter of fact, the reverse is true. The open violation of law is an open invitation to others to join in such violation. Disobedience to law is bad enough when done secretly, but it is far worse when done openly, especially when accompanied by clothing such acts in the mantle of virtue and organizing well advertised and financed plans to carry out such violations. The secret violator of law recognizes his act for what it is: an antisocial act; he may even be ashamed of what he is doing and seek to avoid disapprobation of his neighbors. But the open violator, the agitating violator, acts shamelessly, in defiance of his neighbor's judgment and his fellow man's disapproval.

After his address Dr. King was asked questions and he gave answers, all recorded. The answers to some of these questions are most illuminating.

Dr. King was asked whether he thought "there is a right to disobey an unjust law" in those places "where the Negroes actually have the right to vote." This is Dr. King's answer:

> "There may be a community where Negroes have the right to vote, but there are still unjust laws in that community. There may be unjust laws in a community where people in large numbers are voting, and I think wherever unjust laws exist people on the basis of conscience have a right to disobey those laws."

There we have it. If this philosophy were accepted and carried out by the twenty million American Negroes, it would be enough to disorganize our entire society and produce an intolerable chaos and a denial of individual liberty to every other American.

But, note carefully, Dr. King does not limit his philosophy to Negroes. He says "wherever unjust laws exist *people* on the basis of conscience have a right to disobey those laws." To this I say that we are all fully aware that human beings, being what they are, "conscience" can be, and sometimes is, elastic, conforming to what people want, both overtly and subconsciously. But, as Dr. King must

know, civil disobedience cannot end with Negroes alone. You cannot build a fence around this kind of program. Other people become involved.

The consequences of Dr. King's program, if allowed to continue, would be disastrous to our nation. For example, if Dr. King's erroneous and ill-founded advocacy of civil disobedience were applied, let us say, to the Labor Movement and its fifteen million organized members, think of what it would mean. It is common knowledge that the Labor Movement is convinced, and in good conscience believes, that Section 14(b) of the Taft-Hartley Law discriminates in favor of states having the so-called "Right-to-Work" laws, and is unjust. What if in the last 18 years the Labor Movement had proceeded with a program of civil disobedience as outlined by Dr. King, and had used its organizational power to stage marches, "non-violent marches" of course, sit-ins, "non-violent sit-ins" of course, and other activities—would not such actions tend to disorient our politically organized society? Let us suppose further that George Meany, his Executive Council, and the AFL-CIO unions did all of these things not only with respect to Section 14(b) of the Taft-Hartley Law, but also with respect to other laws, city, state, or federal, which they honestly and in good conscience believe to be unjust to labor. What would happen to our country, to our industries, to our commerce, to our trade, to our existence as a civilized community?

The same applies to all other segments of the nation, to farmers, to merchants, to bankers, to manufacturers, to pacifists, to Catholics, to Protestants or to Jews. Whatever the group, if they decide in the name of religion, morality or personal conscience that certain laws are unjust, then, according to Dr. King's program, they would be justified in carrying out civil disobedience.

Again I ask: If this be so, where would our nation be? Where would our freedom be? Where would our civil rights be?

Dr. King has, not only at this meeting, but at other meetings recently, referred to Hitler's Germany and said that "everything that Hitler did in Germany was legal."

Apart from the fact that in this bare assertion Dr. King is telling only part of Hitler's role in relation to law, he is making an invidious comparison between Hitler's Germany and the United States. I deeply resent it. Most Americans in their right senses should resent it as well. Hitler's Germany was the product of a vicious meglomaniac who was a curse to Germany and the German people, as he turned out to be a curse to other people, and the world at large.

But I want to remind Dr. King, whenever he makes his next speech and compares Hitler and Hitler's Germany to the United States, to tell his audience also that Hitler, when he began in the middle 20's and until he finally escalated himself into becoming the Chancellor of that unhappy nation, followed a philosophy and practice of direct action and civil disobedience. To Hitler and his devotees the laws of the Weimar Republic and the treaties made thereunder were unjust. And from small beginnings of violating one law after another, he built a movement which was prepared to accept and obey

the laws he thought were just and to defy and violate the laws he thought were unjust.

Hitler's Germany and all that it represents in modern experience, with all its tragic consequences, is a most potent argument against civil disobedience. There are any number of other experiences in the world in this century alone, where those who advocated and organized movements to defy the laws made by their governments, particularly democratic governments, have brought evil to their countries and to the world. Numerous Communist as well as Fascist examples come to mind and should not be passed over.

And let us not think that Dr. King's advocacy of civil disobedience is just for the South. He was asked what are the main differences between North and South in so far as civil rights are concerned, and his answer came in a flash:

> "Let me say that the problem in a sense is the same. There may be a difference in degree, but not a difference of kind."

And so, civil disobedience applies to the North as it does to the South, in Dr. King's view. The reason why the North is to be included in the civil disobedience program, according to Dr. King, is that the North is guilty of broad injustice in three areas: unemployment, housing and education. Yet, it is patently obvious, that these three problems involve broad social and economic policies, on the justice or injustice of which thousands of laws, touching on these questions, honest men may in good conscience differ.

Then, as if to cap the climax of the April 21st meeting, came the last question:

> "Dr. King, does your concept of civil disobedience include such tactics as obstructing sites where Negroes are not employed, where those who use such means are willing to accept the consequences, but are not quarreling with the justice of any law?"

Dr. King's answer which is self revealing, I set forth in full, as follows:

> "I think all of our demonstrations and all civil disobedience must be centered on something. In other words, the goals must be clearly stated. I think we have to face the fact that there are instances wherein the process of frustration with the structure of things, people find themselves in positions of not quite being able to see the unjust law. But they see injustice in a very large sense existing. Consequently, they feel the need to engage in civil disobedience to call attention to overall injustice. At that point they are not protesting against an unjust law. I would say that there are very few unjust laws in most of our northern communities. There are some unjust laws, I think, on the housing question and some other, but on the whole the laws are just. But there is injustice, and there are communities which do not work with vigor and with determination to remove that injustice. In such instances I think men of conscience and men of good will will have no alternative but to engage in some kind of civil disobedience in order to call attention to the injustices, so that the society will seek to rid itself of that overall injustice. Again I say that there must be a willingness to accept the penalty.
>
> "I think there must be, always, in a nonviolent movement, a sense of political timing. I do not believe in the indiscriminate use of any form of demonstration. I think we must be well disciplined and think through our moves, and we must clearly define our goals. I think some of us, for example, felt that the stall-in at the World's Fair didn't quite meet that test because certain goals had not been clearly defined. On the other hand we understood the discontent and the impatience and the frustration, and the disappointment, that led individuals to feel that in an unfair world, maybe people should not be finding it too easy to get to a World's Fair. But at the same time we must set clearly defined goals, in calling for demonstrations and practicing civil disobedience."

This answer, like many others, is full of holes and dodges. For

example, according to Dr. King, as long as there is "discontent" and "disappointment" individuals have a right to "feel that in an unfair world, maybe people should not be finding it too easy to get to a World's Fair." And thus stall-ins to block the road between New York City and the World's Fair on opening day in 1964, instead of being condemned, gets to be *"understood."*

From the same sources came the suggestion that, as a further demonstration of "discontent" and "disappointment" with "an unfair world" people should open their faucets in their private homes and let water run to waste. A simpler name for this conduct is sabotage. Where is the end to this type of civil disobedience? It seems that private sabotage, stall-ins on the highway, lie-ins in the White House, in the offices of governors and mayors, and in the offices of other governmental agencies, do not suggest that the end is in sight.

There is also implied in Dr. King's last answer, that if once you state your goal, then you are justified in proceeding with marches and demonstrations, to a point which, it seems to a lawyer, is constitutionally indefensible. Let me illustrate with a graphic example that has only come to the fore in Chicago this very month. In the June 13, 1965 New York *Times,* there appeared a story under the head of "150 Jailed in Chicago Sitdown over Rehiring of School Chief." The repeated demonstrations in Chicago were designed to compel Mayor Richard J. Daley to discharge Dr. Benjamin C. Willis as Superintendent of Schools. The demonstrators stated their goal, "Ben Willis must go." Their demonstrations included lying on the streets to obstruct traffic, sit-ins at City Hall and other familiar techniques.

The demonstrators, according to the *Times,*

> ". . . were led today by the Rev. John Porter, a Negro minister who is head of the Chicago affiliate of the Rev. Dr. Martin Luther King's Southern Christian Leadership Conference, and by Robert Lucas, also a Negro and chairman of the Chicago branch of the Congress of Racial Equality."

Unfortunately, we have reached a point where, if you can gather a large enough group who will chant and sing loud enough, and if that group can obstruct the normal operations of life in the community or of agencies of government and that group's actions are carried out repeatedly, then they seem to feel that they have acquired a legal right to do so. Police are "brutal" when they stop such actions; mayors are "unfair" if they seek to protect life and property; and judges and the law are denounced.

Now, why?

Dr. King has written a book called "Why We Can't Wait," in which he tells us his philosophy and purpose:

> "The purpose of our direct-action program is to create a situation so crisis-packed that it will inevitably open the door to negotiation."

At another point, he says:

> ". . . Actually, we who engage in nonviolent direct action are not the creators of tension. We merely bring to the surface the hidden tension that is already alive. We bring it out in the open, where it can be seen and dealt with. . . ."

Thus, we have the philosophy and purpose of Dr. King's program. It is to produce "crisis-packed" situations and "tensions". Such a purpose is the very opposite

of non-violence, for the atmosphere-of-crisis policy leads to violence by provoking violence. And the provocation of violence is violence. To describe such provocations as "non-violent" is to trifle with the plain meaning of words.

The perpetual crisis technique has been used by the Communist movement throughout the world. Both Communist governments and parties follow it. As I said, it was also used by Hitler in Germany, both on his road to power and after power came to him, as a means of justifying his arbitrary, brutal and barbarous policy. It has been used by every Fascist country we learned to know and abhor in this century. It is disruptive of democratic society and institutions.

Whether Dr. King knows it or not, or wills it or not, the policy of perpetual crisis, of provoking "tensions," as he calls it, and of civil disobedience, are disastrous to the Negro people themselves, to civil liberties and to constitutional government. Such a policy flies in the teeth of the very purpose of our Constitution, which is clearly stated in the preamble to be, among other things, "to insure domestic tranquillity."

It is time that the organized Bar is heard on this question. It is time that we tell Dr. King and his devotees of civil disobedience that the rule of law will and must prevail, that violators of the law, however lofty their aims or position in society, are not above the law. Correction of injustices by intimidation, by extra-legal means, or inspired by fear of violence cannot longer be continued. And law enforcement authorities must make it clear that we are a constitutional government and the laws enacted pursuant to our Constitution must be obeyed whether the individuals or groups affected by those laws believe they are just or not.

In absolute as well as relative terms, we in the United States have built a democratic constitutional system second to none. We have done so by recognizing the proper roles, assigned by our history and governmental philosophy, to the separation of powers in our government. This separation recognizes the sovereignty of states and distributes the political and governmental authorities and functions at the Federal level. It lays down the fundamental principles which regulate the relations of government with citizens and inhabitants of our land. It establishes the rule of law through Constitutions and the Bill of Rights.

Our nation has survived because of the dedication to these principles. Our nation will continue to live as long as all of us, from lawyer to ditch digger, from judge to police officer, insist on according respect and obedience to these basic values of our society.

[End]

Churchill

"Of course, we can't all be Winston Churchills. We all can't be President. I found that out."

—*Richard M. Nixon.* New York Times, 6-15-65: 37M:5.

61-190-1132

October 12, 1965

REC-21

OCT 12 5 14 PM '65
RECD-READING ROOM
F B I

[redacted]
North Charleston, South Carolina

Dear Mr. [redacted]

Your letter of October 8th has been received.

In response to your request, I am enclosing a copy of the list of organizations cited as subversive by the Department of Justice pursuant to Executive Order 10450.

I would like to point out that information in our files must be maintained as confidential in accordance with regulations of the Department of Justice. I am sure you will understand why I am unable to give you the information you requested and I hope you will not infer either that we do or do not have material in our files relating to the subject you mentioned.

b6
b7C

MAILED 30
OCT 12 1965
COMM-FBI

Sincerely yours,

J. Edgar Hoover

John Edgar Hoover
Director

Enclosure
List of Subversive Organizations

NOTE: Bufiles contain no record of Mr. [redacted]

ED:pjf (3)

Tolson
Belmont
Mohr
DeLoach
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

69 OCT 15 1965

MAIL ROOM ☐ TELETYPE UNIT ☐

October 8, 1965

[redacted]
North Charleston, S.C.

Federal Bureau of Investigation
Washington, D.C.

Gentlemen;

Please mail me a list of those organizations which are believed to be subversive. I am presently teaching and would like to post such a list in one of my classes.

I would appreciate any information that you can send me on the American Civil Liberties Union. The Washington Office is:
1101 Vermont Avenue, N.W.
Washington, D.C. 20005
Lawrence Speiser, Director

b6
b7C

I am thinking of becoming affiliated with this organization but want to be sure that I do not unwittingly become involved with a "front."

Thanking you in advance for your consideration,

Sincerly,

[redacted]

AGB/sks

REC-21 61-190-1132

10 OCT 13 1965

10-12-65 EP/ing 10/11

CORRESPONDENCE

4-572 (Rev. 7-18-63)
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : The Director

DATE: SEPTEMBER 29, 1965

FROM : N. P. Callahan

SUBJECT: The Congressional Record

St
file

AMERICAN - Pages 24355-24356. Senator Long, (D) Missouri, pointed out that the New York Civil Liberties Union recently published an article by John J. McAvoy on law enforcement wiretapping and eavesdropping. The article entitled "Court Orders Don't Make 'Bugs' and Wiretaps Constitutional - Stop Police Eavesdropping" was placed in the Record.

Original filed in: 66-1731-2787

61-190

NOT RECORDED
102 OCT 11 1965

In the original of a memorandum captioned and dated as above, the Congressional Record for SEPTEMBER 28, 1965 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

6 OCT 19 1965

NATIONAL CAPITAL AREA CIVIL LIBERTIES UNION

GENERAL MEMBERSHIP MEETING

Tuesday, October 19, 1965

8:00 P.M.

Washington Gas Light Company Auditorium

1100 H Street, N.W.

Briefing of activities will be presented by:

James Hogan of the Due Process Committee

David Carliner of the Legislative Committee

James Siena of the Lawyers Panel

Richard Sobol of the Police Practices Committee

COME - and be prepared to question,
comment, discuss, criticize, argue,
or just listen, but COME!

REC- 66 61-190-133

EX-117

12 OCT 18 1965

American Civil Liberties Union

53 OCT 21 1965

NOTED

The Attorney General

October 18, 1965

Director, FBI

AMERICAN CIVIL LIBERTIES UNION
SEATTLE, WASHINGTON

I understand that captioned organization has sent a wire to you complaining about information allegedly furnished to the press by our Seattle Office in connection with the arrest of [redacted] and six other individuals on [redacted] on charges involving violations of the Federal gambling statutes. b6 b7C

Specifically, this organization claimed that the FBI had notified the press regarding the Commissioner's hearing in this case. It was alleged that as a result, FBI affidavits setting out evidence by confidential informants and photographs of the defendants made at the hearing were disseminated through news media. The wire cited Departmental policy which prohibits Departmental personnel from assisting news media in photographing or televising a defendant being transported in Federal custody and which likewise prohibits the furnishing of photographs of a defendant to such media unless a law enforcement function is served thereby. The wire further charged that this alleged action by our Seattle Office served no law enforcement function and may have jeopardized the defendants' rights to a fair trial. b6 b7C

The American Civil Liberties Union issued a press release of its own on October 8, 1965, in which it stated its position in this matter. The text of the wire to you was set out and, in commenting on it, [redacted] the organization, [redacted] claimed "that the F.B.I. had invited the press" to attend the Commissioner's hearing.

REC-45 61-190-1134

OCT 19 1965

I thought you would like to know that the foregoing charges leveled by the American Civil Liberties Union are completely without foundation and cannot in any way be substantiated. At no time was there a violation of Departmental policy in connection with this matter. The press release was not issued by our Seattle Office until after the arrests had been made, and at no time was the press

UNRECORDED COPY FILED IN 161-5-1751-

Tolson
Belmont
Mohr
DeLoach
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

1 - Mr. Belmont (sent with cover memo)
1 - Mr. DeLoach (sent with cover memo)
1 - Mr. Gale (sent with cover memo)

NOTE: See M. A. Jones to DeLoach memo, dated 10-18-65, captioned "Criticism of Bureau Press Release by American Civil Liberties Union, Seattle, Washington."

MAIL ROOM ☐ TELETYPE UNIT ☐

CJH:csb (11)

invited to attend the Commissioner's hearing nor was any news representative told of the specific time at which it would be held. Every experienced newsman is well aware that immediately following an arrest, the defendant will be brought before a United States Commissioner, and this was obviously the reason for the presence of the newsmen on the scene.

Representatives of this Bureau did not make available to the news media any photographs of the defendants, nor did they offer or render any assistance whatever in photographing or televising these subjects while they were in Federal custody.

1 - The Deputy Attorney General

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
DeLoach
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. DeLoach

DATE: 10-18-65

FROM : M. A. Jones

SUBJECT: CRITICISM OF BUREAU PRESS RELEASE BY AMERICAN CIVIL LIBERTIES UNION SEATTLE, WASHINGTON

b6
b7C

On 10-7-65, the Seattle Office issued a press release announcing the arrest of [redacted] and six other individuals on charges of conspiring to violate Federal gambling statutes (Bufile 165-1751). Thereafter, the American Civil Liberties Union of Seattle issued a press release charging that the FBI had invited the press to attend a "bail hearing" in connection with this case before the United States Commissioner with the result that information from a confidential informant was published. The press release contained the text of a wire sent to the Attorney General alleging that the press and television carried photographs of the defendants taken at this hearing and were the subjects of lead stories in local papers. The wire went on to complain that the foregoing was in violation of Departmental policy regarding the release of information which prohibits Departmental personnel from encouraging or giving assistance to news media in photographing an individual being transported in Federal custody. It was further alleged that Departmental policy also prohibits its representatives from making available photographs of a defendant unless a law enforcement function is served thereby. The wire concluded by stating that the defendants' rights to a fair trial may have been jeopardized and requested advice as to "whether this action by Seattle F.B.I. office was sanctioned by Justice Department."

By airtel dated 10-12-65, Seattle forwarded a copy of the above press releases, local press clippings, a copy of the complaint and copies of supporting affidavits.

REGARDING ALLEGATIONS:

16 OCT 21 1965

The Seattle Office noted that the foregoing charges are completely unfounded. That office, of course, issued no invitation to the press to attend the Commissioner's hearing. Seattle did issue a press release following the arrest. The news media is well aware after receiving such a release that a Commissioner's

Enclosure - Sent 10-19-65
1 - Mr. Belmont - Enclosure
1 - Mr. Deloach - Enclosure
1 - Mr. Gale - Enclosure

161-190-

NOT RECORDED
141 OCT 22 1965

Continued...

CCJH:mm
(7)

OCT 27 1965

ORIGINAL FILED IN

hearing is imminent and steps are automatically taken to have reporters covering the hearing. At no time were photographs of the defendant made available to anyone from the news media by Bureau personnel, nor did we offer any kind of assistance in photographing or televising these defendants after they had been taken into Federal custody.

RECOMMENDATION:

That the attached communication to the Attorney General pertaining to this matter be approved and sent.

10/12/65

AIRTEL AIR MAIL

TO : Director, FBI (165-1751)
ATTN: Crime Records
FROM : SAC, Seattle (165-69)

b6
b7C

SUBJECT: [redacted], aka
ET AL
ITWI; ITAR - GAMBLING
OO: Seattle

Re telephone call to the Bureau today.

For the information of the Bureau, there is attached a copy of a press release dated 10/8/65, made by the American Civil Liberties Union of Washington, 2101 Smith Tower, Seattle, Washington, which was broadcast over the local radio stations on 10/12/65.

AL WALLACE, KING, advised that they picked the story up over the UPI wire but did not use it.

With respect to this matter, there is attached for the Bureau's information a copy of the complaint and supporting affidavits filed before USC WALTER J. RESEBURG on 10/7/65, in Seattle together with a copy of a press release which was made after the seven individuals were arrested. There was absolutely no elaboration on this press release at the time it was given.

With respect to the matters referred to in the ACLU release (1) there was no release made by anyone from this office in advance of the time the arrest was made (2) "There was no assistance rendered by anyone from this office to the news media in photographing or televising a defendant or accused person being held or transported in Federal custody" nor were any photographs of a defendant made available to anyone from the news media.

3 - Bureau (Enc. 6)
2 - Seattle
JEM/las
(5)

61-190-
NOT RECORDED
128 OCT 21 1965

57 OCT 28 1965

ORIGINAL FILED IN 165-1751-52

b6
b7C

As the Bureau files will reflect this investigation was conducted with the assistance of [redacted] the Post Intelligencer, whose facilities were being utilized by the gamblers in the furtherance of their scheme. The charge that the FBI violated the Attorney General's instructions are completely without foundation and are utterly ridiculous. Since any news media representative worthy of the cause knows that immediately after we arrest anyone and in keeping with the law, he is taken before the nearest USC for a hearing so they habitually upon receiving news from us concerning an arrest send a photographer to the Commissioner's office with a reporter to cover the hearings. Certainly in a case of this nature they would have done so.

The photographs that they took were of the subjects as they approached the Commissioner or departed from his office and were taken without any assistance whatsoever by the Bureau Agents. There has been no inquiry made of me at this time concerning this matter.

Also submitted herewith are newspaper clippings relating to this case.

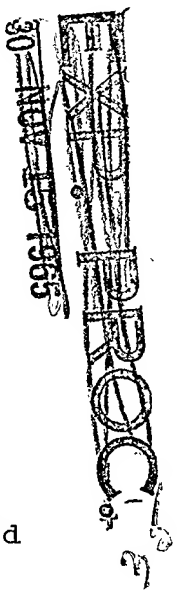
U.S. DEPARTMENT OF COMMERCE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20230

RA

November 10, 1965

Ltd

Honorable J. Edgar Hoover
Director, Federal Bureau of Investigation
Department of Justice
Washington, D.C. 20535



Dear Mr. Hoover:

Attached is a letter dated October 26, 1965, which was forwarded to the National Bureau of Standards Graduate School by the American Civil Liberties Union, with which was enclosed a paper prepared by A.C.L.U. entitled, "Statement on the New College."

Our librarian in the National Bureau of Standards felt that that portion of the statement underlined on page 6 warranted referral to your Bureau. Consequently, it is forwarded for your information and such action as you deem appropriate.

Sincerely yours,

b6
b7C

[redacted]

Enclosure

EX 110
REC- 78 61-190-1135

25 NOV 15 1965

1 ENCLOSURE

INTSEC

66 NOV 18 1965 F20

FOUNDED 1920/INCORPORATED

AMERICAN CIVIL LIBERTIES UNION aclu

156 FIFTH AVENUE / NEW YORK / NEW YORK 10010 / ORegon 5-5990

October 26, 1965

Chairman, Political Science Dept.
National Bureau of Standards Grad. School
National Bureau of Standards
Washington, D. C.

Dear Professor:

The enclosed statement was prepared by the Academic Freedom Committee of the American Civil Liberties Union, specifically for institutions of higher learning established within the past ten years. It has been sent to the president of your institution along with the attached letter.

In sending a copy to you, the Committee hopes that your interest will encourage other faculty members to read it and discuss its contents among themselves and with members of the administration as well.

Should you or any of your colleagues wish to communicate with us with regard to any aspect of the statement, we shall be glad to hear from you.

Sincerely yours,

John de J. Pemberton, Jr.

John de J. Pemberton, Jr.
Executive Director

Robert Bierstedt

Robert Bierstedt
Chairman, Academic Freedom Committee

Enc.

61-190-1135

ENCLOSURE

150

... Students should be free to organize and join associations for educational, political, social, religious and cultural purposes.

... The administration should not discriminate against a student because of membership in any such organization.

... Organizations should not be required to file a list of members ---. All student publications -- should enjoy full freedom of the press.

... When a student organization wishes to invite an outside speaker -- permission should not be withheld because the speaker is a controversial figure. (9)

8. STUDENT DUE PROCESS
The American Civil Liberties Union, 1961:
The Student as Citizen

No disciplinary action should be taken by the college against a student for engaging in such off campus activities as political campaigning, picketing or participation in public demonstrations, providing the student does not claim without authorization to speak or act in the name of the college or one of its student organizations.

When students run into police difficulties off the campus in connection with what they regard as their political rights -- as for example taking part in sit-ins, picket lines, demonstrations, riding in freedom buses -- the college authorities should take every step practical to assure themselves that such students are protected in their full legal rights.

Due Process for Students:

No student should be expelled or suffer major disciplinary action for any offense other than failure to meet required academic standards, without having been advised explicitly of the charges against him which at his request should be in writing.

He should be free to seek the counsel of a faculty member of his choice or other adviser.

Should (the student) admit guilt but consider the penalty excessive, or should he claim to be innocent, he may ask for a hearing before a review board.

The hearing committee should examine the evidence, hear witnesses as to facts and student's character, and weigh extenuating circumstances.

The student should be permitted to call witnesses on his own behalf and confront and cross-examine those who appear against him.

A final appeal should be allowed.

America's commitment to the great expansion of higher education is one of the exciting developments of our time. As a people, we have dedicated ourselves to the principle that all young people of capacity and ambition will find a place

Like any other professional or non-professional worker, the teacher should be free to organize with others to protect group interests or to join existing unions or other organizations for such purposes.

2. The criteria of performance for a teacher should be those associated with personal and professional integrity in a democratic society. -- A teacher should be appointed on the basis of his teaching ability and his competence in this professional field, not on the basis of his race, nationality, creed, religious belief or affiliation; a proper exception exists in the right of a private institution of publicly declared faith, denomination or special function to select teachers on a basis harmonious with its public declaration.

The central issue in considering a teacher's fitness, is his own performance in his subject and his relationship with his students. The ACLU opposes as contrary to democratic liberties any ban or regulation which would prohibit the employment as a teacher of any person because of his views or associations, such as Communist or Fascist. The ACLU does not oppose ouster of any teacher found lacking in professional integrity.

The community has the right to demand that the educational institution shall be competently staffed and capably administered. Matters of curricula properly are the responsibility of the professional staff who are under obligation to be guided by high professional standards of scholarship and of teaching methods and by full awareness of the community's educational needs. (The community) -- has neither the right to, nor indeed any social justification for, insistence that a discussion of deviations from accepted principles be excluded from the curriculum. (7)

7. ACADEMIC FREEDOM AND CIVIL LIBERTIES OF STUDENTS

The American Civil Liberties Union, 1956:

The democratic way of life depends for its very existence upon the free contest of ideas. This is as true on the campus as in the community at large. If our students are to grow to political and social maturity, no step should be neglected which will habituate them to the free interchange of ideas -- unpopular and strange ideas as well as those which are favored and familiar. ...A democracy encourages to the highest degree possible the participation of the governed in the governing process. ... A democracy combats possible abuses not by a system of pre-censorship but by definite fixing of responsibility for such abuses and the application of disciplinary measures when necessary. (8)

The ACLU, 1961:

The student government, student organization, and individual students should be free to discuss, pass resolution upon, distribute leaflets, petitions, and take other lawful action respecting any matter which directly or indirectly concerns or affects them....

Full record to be taken and be made available to hearing group, administration and the teacher the AAC-AAUP recommends that the hearing committee "should make explicit findings with respect to each of the grounds of removal presented."
Consideration of Governing Body (trustees)
the AAC-AAUP states that, "Acceptance of the committee's decision would normally be expected." Procedures for re-submission to Hearing Committee channels of appeal.
Action in non-tenure cases is suggested by ACLU (6)

6. ACADEMIC FREEDOM AND RESPONSIBILITY OF THE FACULTY

The AAUP, 1940:

The common good depends upon free search for truth and its free expression. Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning.

The American Civil Liberties Union, 1956:

Academic freedom and responsibility are here defined as the liberty and obligation to study, to investigate, to present and interpret, and to discuss facts and ideas concerning man, human society, and the physical and biological world in all branches and fields of learning. They imply no limitations other than those imposed by generally accepted standards of art, scholarship, and science. They include the right within and without institutions of learning to be free from any special limitations of investigation, expression and discussion. As citizens, students and teachers have the rights accorded all citizens.

Academic freedom and responsibility of teachers embraces two distinct areas: 1) the conduct of the teacher apart from specifically professional responsibilities and 2) his conduct in teaching and other activities directly related to his professional responsibilities.

1. When not engaged in specifically professional activities, the teacher should be able to function with the freedom of any other citizen. In his private capacity the teacher should be as free as any other citizen in political, religious, and social movements and organizations and in any other lawful activity, and to hold and to express publicly his political, religious, economic or other views. The fact of his being a teacher should not debar him from any activities open to other citizens.

Teachers should not be requested to take any special oath of loyalty to the government. --No one should be subjected, as a condition of holding a teaching position, to any test of religious belief or of political belief other than his pledge to support the Constitution of his state and of the United States.

5. ACADEMIC DUE PROCESS FOR FACULTY

A statement Adopted by Joint Committee of American Association of University Professors and Association of American Colleges, 1958:

A necessary pre-condition of a strong faculty is that it have first-hand concern with its own membership. This is properly reflected both in appointments and in separations from the faculty body. A well organized institution will reflect sympathetic understanding by trustees and teachers alike of their respective and complimentary roles. These should be spelled out carefully in writing and made available to all. -- One persistent source of difficulty is the definition of adequate cause for dismissal of a faculty member. (5)

American Civil Liberties Union, 1954:

The best academic due process is possible only when the institution and the teacher both believe that justice must be based upon order. The principle embodied in the legal concept of confrontation should govern academic due process.

The teacher should be informed of all the charges and all the evidence against him; he should have full opportunity to deny, refute, and to rebut -- it is a fundamental principle of fairness that charges against a person are to be made when proven, and that the burden of proof rests upon those who bring them --. The responsibility for applying this principle in the world of education rests primarily upon the governing board and administration of the institution. (6)

Recommendations on procedures to safeguard due process are spelled out in both statements (5,6). They cover the following:

Action in Tenure Cases
Preliminary proceedings concerning the fitness of faculty member

Formal Proceedings
- Relevant legislation, board by-laws, etc.
- Presentation of charges
- Procedure to be followed at proceedings
- Setting of date after sufficient time has elapsed for preparation of case
- Selection of hearing committee -- the ACLU advises that whenever possible "a standing committee of full time teaching colleagues democratically chosen and representative of the staff, and selected by pre-established rules."
- Suspension of faculty member, the AAC-AAUP advises, "only if immediate harm to himself or others is threatened by his continuance."

Committee proceeding
- Right of teacher to be present accompanied by counsel ...
- Right of teacher and administration to present and examine witnesses and to cross-examine
- Principle of confrontation

when, after the term of probationary service of more than three years in one or more institutions, a teacher is called to another institution, it may be agreed in writing that his new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years. Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period.

3. During the probationary period a teacher should have the academic freedom that all other members of the faculty have. (2)

3. NOTICE OF NON-REAPPOINTMENT

American Association of University Professors, 1964:

Because a probationary appointment, even though for a fixed or stated term, carries an expectation of renewal, the faculty member should be explicitly informed of a decision not to renew his appointment---.

Notice of non-reappointment, or intention not to recommend reappointment to the governing board should be given in writing in accordance with the following standards:

1. Not later than March 1 of the first academic year of service, if the appointment expires at the end of the year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination.

2. Not later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminated during an academic year, at least six months in advance of its termination.

3. At least twelve months before the expiration of an appointment after two or more years in the institution. (3)

4. RESIGNATION BY A MEMBER OF THE FACULTY AND RECRUITMENT

The American Association of Colleges, 1961:

1. Negotiations looking to possible appointment for the following fall of persons who are already faculty members in active service -- and not on terminal appointment, should be begun and completed as early as possible in the academic year. It is desirable that, when feasible, the faculty member inform the appropriate officers of his institution when such negotiations are in progress. The conclusion of a binding agreement for the faculty member -- should always be followed by prompt notice to his institution.

2. A faculty member should not resign in order to accept another employment as of the end of the academic year, later than May 15th or 30 days after receiving notification of the terms of his continued employment the following year, whichever date occurs later. -- This obligation will be in effect only if institutions generally observe the time factor set forth in the following paragraph for new offers. --

3. To permit a faculty member to give due consideration of timely notice to his institution -- an offer of appointment for the following fall at another institution should not be made after May 1st. --

4. Except by agreement with his institution, a faculty member should not leave or be solicited to leave his position during an academic year for which he holds an appointment. (4)

1. FACULTY PARTICIPATION IN COLLEGE AND UNIVERSITY GOVERNMENT

The American Association of University Professors, 1960:

Agencies of faculty representation, chosen in a manner determined by the faculty should be provided at each major organizational level in the institution concerned.

Communication with the governing board should not be confined to the chief administrative officer.

-- The rules governing procedures for faculty representation should be officially adopted and should be available to all concerned.

Decisions as to the area and extent of faculty representation and participation in college and university government should involve the judgment of the faculty. The faculty should have major responsibility for the educational and research policy of the institution. This policy area includes such fundamental matters as standards of admission of students, student affairs, curricula, and the granting of degrees.

-- The allocation of available resources among competing demands has such obvious and important implications for educational and research policy as to call for a direct role by the faculty in the making of budget decisions at all levels.

-- Appointments, promotions, and dismissals of academic personnel should be made only by processes that provide the active faculty participation through established committees and procedures.

The chairman or head of an academic department should be elected by the members of the department or should be appointed after consultation and normally in conformity with the judgment of the members of the department.

The selection and dismissal of deans, presidents, and other academic administrative officers should involve meaningful participation by the faculty through its elected representatives. (1)

2. TENURE

The American Association of University Professors, 1940:

After the expiration of a probationary period teachers or investigators should have permanent or continuous tenure, and their services should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

1. The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.

2. Beginning with appointment to the rank of full-time instructor or a higher rank, the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that

The first years are critical. Hasty judgments and ill considered actions may jeopardize the standing of the institution for years to come. The answers to the following questions may indicate whether, in the long run, the independence of the college from pressures from above and without may be withstood and whether the quality of students and faculty may be maintained.

> Is there significant participation of faculty in major policy decisions on curriculum and personnel including appointment, promotion, and dismissal?
>
> May faculty tenure be attained after a limited period of probation?
>
> Are there specific regulations governing non-reappointment and resignation?
>
> Is academic freedom for students and faculty scrupulously guarded?
>
> Is due process guaranteed for the faculty member whose fitness is questioned and for a student brought up on charges of misconduct?

On these vital matters of policy, members of the academic profession have crystalized their opinion during the past 50 years. The standards they have arrived at are applicable to all institutions -- junior, senior or community colleges, urban, rural or commuting colleges. They are set forth in the excerpts printed below from published statements of the American Association of University Professors, Association of American Colleges, and American Civil Liberties Union.

AMERICAN CIVIL LIBERTIES UNION

156 FIFTH AVENUE

NEW YORK, NEW YORK 10010

STATEMENT ON THE NEW COLLEGE

In the last 10 years over 400 new colleges have been established in the United States. Each year will show a further increase. In the past, new colleges grew slowly; there was time for an evolution of the academic spirit. Now maturity must be achieved overnight if the new college is to leave an imprint of intellectual integrity on the thousands of students who will crowd its campuses in the next few years.

The impact of these new institutions on the students and the community will depend to a great extent on the scholarship and teaching skill of the faculty, the competence and zeal of the administrators and faculty in planning curricula and facilities favorable to learning. It will also depend on the climate of freedom for teaching, for research, and for learning which is the mutual concern of administrators, faculty and students. This climate will determine in large part whether the college becomes merely an efficient business organization whose product is degree students or a sensitive, viable institution of higher learning.

Many governing bodies of new institutions have had little or no previous experience with the purposes and problems of higher education. A heavy responsibility therefore rests upon the newly established administrations, their presidents and deans, and on the faculty. They know the new institution will quickly have to pass a series of rigorous tests.

Will the institution receive accreditation?

Will students who wish to transfer to other colleges obtain recognition and credit for work done?

Will there be created a spirit of freedom of inquiry and a testing of beliefs, whether traditional or new, which will attract and hold good students and inspired teachers and productive scholars?

Confidence and support of parents, students, and the academic community can be obtained only if these challenges are met intelligently and forthrightly. Confidence may be shaken if there are unwarranted pressures either from governing bodies or the community. These pressures may be exerted on such matters as courses of study, selection of personnel, the conduct and deportment of students and teachers on campus and their participation as citizens in social and political movements or activities.

61-190-1135

ENCLOSURE

to continue their education -- regardless of family financial ability, race, color, national origin or religion.

The new institutions will play a major role in the fulfilling of our commitment. The first years are the most difficult; the battle will be won or lost then. It will be won if the dedication to the principles of a free institution are clearly expressed and courageously defended.

The Academic Freedom Committee of the American Civil Liberties Union comprised for the most part of university teachers, department heads and administrators, offers its services and will endeavor to be of assistance whenever the occasion arises.

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OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

UNITED STATES GOVERNMENT

Memorandum

Tolson
Belmont
Mohr
DeLoach
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. DeLoach

DATE: 10-26-65

FROM : M. A. Jones

SUBJECT: HONORABLE HU BLONK
MANAGING EDITOR
DAILY WORLD
WENATCHEE, WASHINGTON

b6
b7C

BACKGROUND:

My memorandum dated 10-18-65 captioned "Criticism of Bureau Press Release by American Civil Liberties Union, Seattle, Washington," noted that our Seattle Office had issued a press release on 10-7-65 announcing the arrest of [redacted] and six other individuals on charges of conspiring to violate Federal gambling statutes. The American Civil Liberties Union issued a press release on the following day charging that the FBI had invited the press to attend the Commissioner's hearing in this case and implied we had given the press photographs of the defendants and had assisted press and television representatives in photographing the defendants at the hearing in violation of Departmental policy. These allegations were set out in a telegram sent to the Attorney General by the American Civil Liberties Union. We refuted these unfounded charges in a letter to the Attorney General dated 10-18-65.

CURRENT DEVELOPMENT:

The Seattle Office has forwarded a copy of a letter captioned individual sent to the Attorney General together with a copy of an editorial he prepared for the 10-18-65 issue of his newspaper. This editorial is highly critical of the American Civil Liberties Union. It notes that in issuing the Bureau press release, an FBI Agent called newspapers and dictated a release giving the names of the defendants, their ages, addresses and details of the arrests. Blonk points out that the Agent did not volunteer any information about the hearing and states, "in fact he was vague about it," and offered no help in taking pictures nor did the Agent suggest that pictures be taken. The editorial accuses the American Civil Liberties Union of "nitpicking" and states, "The FBI did nothing out of the ordinary...." and did not violate Departmental orders.

Enclosure 10-26-65
1 - Mr. DeLoach - Enclosure
1 - Mr. Gale - Enclosure

CJH:csb (6)

Continued.

161-1907
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102 OCT 29 1965

ORIGINAL FILED IN 94-4-3-1147-8

M. A. Jones to DeLoach memo
RE: Honorable Hu Blonk

Blonk's letter to the Attorney General notes that he, Blonk, is chairman of the Freedom of Information Committee of the Associated Press in the State of Washington. He enclosed a copy of his editorial and stated, "On behalf of the Associated Press members of Washington I would like to urge that nothing be done to interfere with the present wholesome relationship of the press with the Seattle FBI office" and states the Bureau did nothing contrary to Departmental policy which governs the dissemination of information to the press.

The Seattle Office suggests a letter of appreciation to Blonk. Bureau files indicate that we have had prior limited but cordial correspondence with Blonk.

RECOMMENDATION:

That the attached letter of appreciation to Mr. Blonk be approved and sent.

NATIONAL CAPITAL AREA CIVIL LIBERTIES UNION

An Affiliate of the American Civil Liberties Union

SUITE 803, 1101 VERMONT AVENUE, N.W. WASHINGTON, D.C. 20005 DI 7-8826

60 NOV 24 1965

AMERICAN CIVIL LIBERTIES UNION

Dear NCACLU Member:

I am writing to ask you for one dollar -- more, if you can manage it -- but just one dollar will serve our needs.

The Lawyers Constitutional Defense Committee (LCDC) is the ACLU-sponsored coordinating organization for the legal activities of all the major civil rights groups in the South. It has represented over 2,000 civil rights clients, virtually all of whom would have been helpless before Southern courts without LCDC's assistance. NCACLU volunteer attorneys who have served in the South include Armand Derfner, Charles Halpern, Paul Haskell, Jim Siena, Spencer Smith, Richard Sobel, Ralph Temple, Frank E.G. Weil, and Hal Witt.

LCDC's work is, of course, vital, yet it does not have sufficient funds to use all the lawyers who have volunteered. NCACLU's commitment to LCDC is $3,000. If each of our members contributes just one dollar, we can meet our obligation toward the establishment of civilized justice in the South.

We hope to receive $2,999 from your fellow NCACLU members. Your one dollar will count. We cannot fulfill our commitment without it. Will you put it in the enclosed envelope -- please?

ENCLOSURE

REC- 16

Sincerely yours,

6 NOV 22 196

Monroe H. Freedman
Chairman

EX-101

P.S. For anyone who might be inclined to give more, it should be noted that contributions to LCDC are tax deductible.

Deleted Copy Sent Freedman
by Letter 7-18-75
Per FOIA Request

National Capitol Area Civil Liberties Union

1101 Vermont Avenue, N. W. – Suite 803

Washington, D. C. 20005

LAWYERS CONSTITUTIONAL DEFENSE COMMITTEE
ADDS 856 CLIENTS IN FIVE DAYS

Since LCDC opened its permanent office in Jackson in February, it has represented over 1,500 civil rights clients, including the 856 people arrested in Jackson early in June.

LCDC now has offices in Jackson, Montgomery, Ala., Shreveport and Monroe, La. Volunteer lawyers will also serve in Atlanta, Ga., New Orleans, and Talahassee, Fla.

LCDC has obtained a loan of $50,000 to bail out the Jackson defendants. (The civil rights movement normally assumes responsibility for bail money. LCDC's own resources must be used to provide counsel).

With most of the summer still ahead, LCDC's need for funds is becoming desparate. Half the projected budget of $125,000 is in hand--the other half must be raised. Despite passage of the Civil Rights Act, and imminent passage of the voter registration bill, Southern resistance to extending constitutional rights to all continues undiminished.

Our present budget does not permit us to utilize all the lawyers who have volunteered. The demand for their services keeps growing. If we don't do the job, no one will.

Funds are needed urgently now. YOU can help to defend precious constitutional rights. Will you give now, and as generously as you can.

(Checks should be made out to LCDC-ACLU. Contributions are tax-deductible.)

66-190-1136
ENCLOSURE

THE NEW YORK TIMES, SATURDAY, JUNE 19, 1965.

103 MORE PICKETS HELD IN JACKSON

March Fails to Materialize —Arrests Reach 856

By PAUL L. MONTGOMERY
Special to The New York Times

JACKSON, Miss., June 18 — A total of 103 civil rights workers and Mississippi Negroes were arrested this afternoon in sporadic demonstrations around the capital city.

The Freedom Democratic party, which has been sponsoring the protests that began Monday, had planned a large march on the capitol but support for the march did not develop in the Negro community.

Today's arrests raised the total to 856 for the last five days.

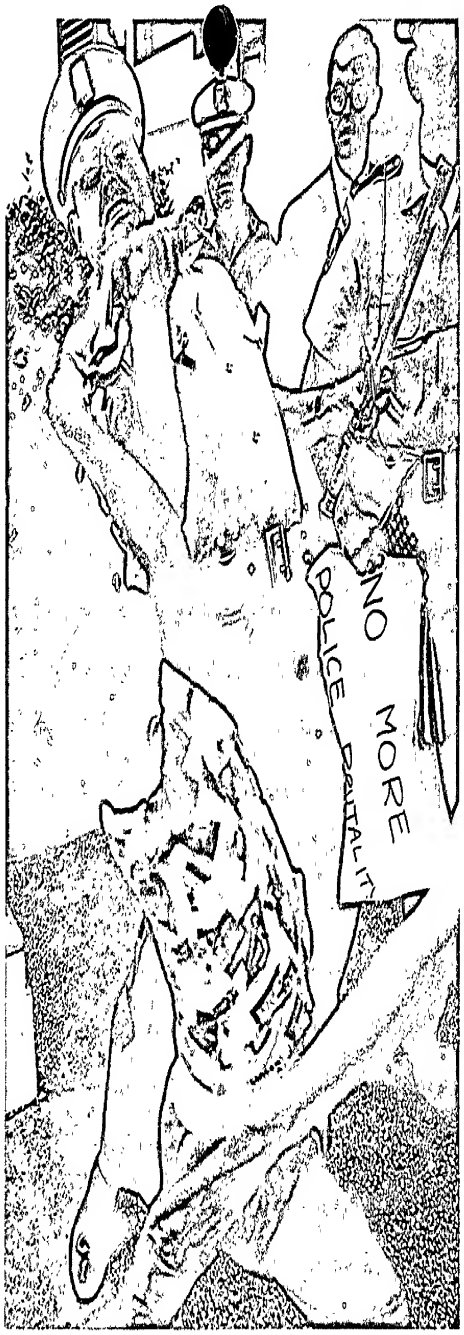
In one incident at the white-columned Governor's Mansion, a beefy, suntanned Mississippi highway patrolman and a wide-eyed, 5-year-old Negro boy scuffled over the child's tiny American flag.

Doctor Seeks Arrest

The boy, Anthony Quin, was in a group of six who huddled in a shaded entrance of the building. He sat solemnly on the bottom step with his flag. Next to him was Dr. June Finer, a pretty, 30-year-old Chicagoan who works here with the Medical Committee on Human Rights.

As the squad of patrolmen advanced on the little group to make the arrests, Dr. Finer put her arm around the boy. "Gimme that flag," said Patrolman Huey Krohn, a driver for Gov. Paul B. Johnson Jr. Anthony refused.

The patrolman tried to wrest the flag from him but the child held on. He was dragged a few feet by the man and then lifted several feet off the ground. Finally the patrolman broke the stick of the flag and thrust the child from him. Anthony fell on the ground and began to cry. He was taken into the paddy wagon.



Matt Herron from Blackstar

INCIDENT IN JACKSON: Patrolman Huey Krohn of the Mississippi Highway Patrol wrests an American flag from Anthony Quin, 5, during civil rights demonstration outside the Governor's Mansion. The boy and his mother, Mrs. Aylene Quin, a local civil rights leader, were arrested. Patrolman Krohn is one of the Governor's drivers.

The child was released several hours later in the custody of Alvin Bronstein, chief staff counsel of the Lawyers Constitutional Defense Committee.

DO-6

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

January 3, 1966

The attached publication was sent to the Director by the National Capital Area Civil Liberties Union, Washington, D. C.

Reference is made to the FBI on page 1.

crt

MR. TOLSON
MR. DELOACH
MR. MOHR
MR. CASPER
MR. CALLAHAN
MR. CONRAD
MR. FELT
MR. GALE
MR. ROSEN
MR. SULLIVAN
MR. TAVEL
MR. TROTTER
MR. WICK
MR. JONES
TELE. ROOM
MISS HOLMES
MRS. METCALF
MISS GANDY

File 61-190

REC 58 61-190-1137
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9 JAN 10 1966

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50 JAN 13 1966

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CAPITAL C.L.U. NEWS

NATIONAL CAPITAL AREA CIVIL LIBERTIES UNION

An Affiliate of the American Civil Liberties Union

SUITE 803, 1101 VERMONT AVENUE, N.W., WASHINGTON 5, D.C. —347-8826

VOL. IV, NO. 6 DECEMBER 1965

Coffee, Cake & Conversation

JANUARY MEMBERSHIP MEETING EXPECTS RECORD ATTENDANCE

The first general membership meeting of the new year will be held Monday, January 17, at the National Lawyers Club, 1815 H St., N.W. at 7:30 p.m.

The three committee chairmen who are scheduled to report on their activities are Bernard Scholz, Welfare; Richard Barnet, Housing; and Stanford Robins, Government Employment. In addition, there will be several reports by participating attorneys of the Lawyers Panel on current cases.

A question and answer period, which proved extremely successful at the heavily attended October membership meeting, will follow. Coffee and cake will be served during the conversation period that will close the meeting.

© Stephen Kraft

NCACLU TOPS LCDC FUND QUOTA

The prompt and generous response to our appeal to the NCACLU membership for funds to support the Lawyers Constitutional Defense Committee (LCDC) enabled our chapter to exceed its commitment of $3,000, according to NCACLU Chairman Monroe Freedman.

LCDC, the ACLU-sponsored organization that coordinates all legal activities of all the major civil rights groups in the South has been in need of funds to support the many lawyers who have volunteered throughout the country to serve those who have been unable to protect their rights in the southern courts. Participating organizations, other than ACLU, are CORE, the National Council of the Churches of Christ, NAACP, American Jewish Committee, American Jewish Congress and SNCC.

The LCDC was organized in the summer of 1964 to insure that legal aid would be available to those long deprived of their constitutional rights. Over 500 lawyers from all over the country and from every kind of legal practice went south that summer to Mississippi, Louisiana, Florida and Alabama. They defended hundreds of "outside agitators" on charges ranging from criminal anarchy and insurrection to speeding and vagrancy. They bailed out those who were arrested. They filed actions to bring about the enforcement of the Civil Rights Act of 1964. They submitted complaints to federal agencies. And they negotiated with voter registrars, sheriffs, city and county attorneys, boards of education, police, FBI and landlords.

NCACLU volunteer attorneys these past two summers include Charles Halpern, Armand Derfner, Paul Haskell, James Siena, Spencer Smith, Richard Sobel, Ralph Temple, Frank E. G. Weil and Hal Witt.

ON-THE-SCENE REPORT FROM LCDC-NCACLU ATTORNEY

by Charles R. Halpern

During this past summer I had the enlightening experience of spending three weeks in northern Louisiana doing legal work for the civil rights movement as a member of the Lawyers Constitutional Defense Committee.

It was surprising to see how unfairly the legal system operates in Louisiana. In the North we hear only of the spectacular injustices—the murders in broad daylight that go unpunished. But such injustices, different only in degree, make up the fabric of the southern Negro's life.

I spent a good deal of my time in Jonesboro, Louisiana, a town of about 3,800. In the center of the town is the Jackson Parish Courthouse, an imposing yellow brick building surrounded by large shade trees. The administration of the laws in this courthouse was about what one would expect. One incident is fairly characteristic. In mid-July, eighteen demonstrators were arrested while picketing a white-owned grocery store in a Negro area. They were taken to jail in a closed garbage truck and charged with disturbing the peace, a misdemeanor. Although it seems unbelievable to a northern lawyer, they were charged under a statute that the Supreme Court had

(Continued on page 4)

Vol. IV, No. 6 **Capital CLU News** December 1965

Newsletter of The National Capital Area Civil Liberties Union

STAFF THIS ISSUE

Miss Barbara Kraft, Editor

Typography—G. Gullickson Printing—Turnpike Press

FROM THE CHAIRMAN . . .

by Monroe H. Freedman

The protests against United States involvement in Vietnam, and the reactions of some public officials, have created a civil liberties problem of major proportions. Indeed, responsible people have already expressed concern that a new era of McCarthyism may result from attempts to stifle dissent and to create a factitious consensus.

Once again, ACLU is the organization most active in defending the First Amendment and related constitutional rights. The New York affiliate is representing David Miller in the first test of the statute making it a federal felony to burn a draft card. The ACLU of Michigan is representing students who have been reclassified 1-A as a punishment for staging a sit-in protest at a draft board office. (The Michigan affiliate has suggested the possibility of requesting NCACLU cooperation in these cases.) ACLU's Executive Director, John Pemberton, has issued public statements and written letters explaining the damage done to our fundamental liberties by the various official tactics that have been used to discourage dissent.

Our own affiliate is representing people arrested at the demonstration near the Capitol last summer. Volunteer attorneys Stanford Robins and Richard Shlakman recently filed an extensive and scholarly brief in these cases in the D.C. Court of Appeals.

With the unanimous authorization of our Executive Board, we wrote a letter early in November to Mr. Sylvan Reichgut, Director of the D.C. Selective Service System, expressing concern over threats of retaliatory draft reclassification elsewhere, and requesting assurances that no such practice will be followed in the District of Columbia. Mr. Reichgut responded emphatically and unequivocally that the local boards will not discriminate in classification on grounds of "membership or activity in any labor, political, religious or other organizations."

NCACLU also participated with about two dozen officials of the Metropolitan Police Department, the National Capital Park Police, and other government agencies in discussions preceeding the November 27th peace demonstration. The purpose of these discussions was to insure that police abuses here and elsewhere would not be repeated, and that the rights of the demonstrators would be fully protected. On the basis of the excellent attitude displayed by these officials during our discussions, NCACLU publicly expressed a sense of encouragement and the hope that the demonstration would be "a model of American democracy in action." From our own observation and reports we have received, the conduct of the police on this occasion was exemplary.

In addition NCACLU has been represented on a number of recent panels, on radio and television and on university campuses, explaining the civil liberties aspects of the current protest cases. We do not, of course, take a position on the substantive merits of the dispute over American policy. Nor do we defend civil disobedience as such. Rather, our concern has been to protect freedom of speech and assembly, and to insure that no one is punished for civil disobedience in a manner inconsistent with due process.

For example, ACLU did not represent those who were prosecuted for trespass for conducting a sit-in at the Michigan draft board office. That was an act of civil disobedience in violation of a law constitutional on its face and not used in a discriminatory manner. On the other hand, the additional punishment meted out by the draft board by reclassifying the students 1-A, involves several civil liberties issues. First, it was made unmistakably clear that the purpose of the reclassification was to punish protest, not trespass. Second, the regulatory standards ("interference with the administra-

(Continued on page 3)

The G. W. U. Hatchet

COMMITTEE ROUNDUP . . .

At its November meeting the NCACLU Executive Board approved the Lawyers Panel involvement in four new matters.

The first involved a case of alleged police brutality. The individual making the complaint is being prosecuted, and Michael Padnos, volunteer attorney, has undertaken to defend him. If warranted, a complaint will be filed against the offending officers before the Civilian Review Board. This case could provide an opportunity to determine how effectively this recently revised Review Board will operate.

The Board also approved NCACLU participation with the Maryland Civil Liberties Union in a joint effort invoking the Maryland "Defective Delinquent" statute. This statute provides for the indeterminate sentencing of legally sane persons

> who by the demonstration of persistent aggravated antisocial or criminal behavior evidence a propensity toward criminal activity, and who (are) found to have either such intellectual deficiency or emotional unbalance, or both, as to clearly demonstrate an actual danger to society, so as to require such confinement and treatment, when appropriate, as may make it reasonably safe for society to terminate the confinement and treatment.

The Fourth Circuit Court of Appeals has suggested that while the statute is not unconstitutional on its face, substantial constitutional questions of due process and equal protection are raised in its administration. The statute is presently under attack in both the Maryland courts and the Federal courts and the NCACLU, relying on volunteer attorney Bernard Reis, will be joining the Maryland chapter in an amicus discussion of these constitutional questions.

The Board also approved Lawyers Panel participation as amicus curiae in a case involving a retaliatory eviction of a District of Columbia tenant. Judge Harold Green of the District of Columbia Court of General Sessions ruled in a preliminary proceeding in the case of **Habib** v. **Edwards**, that a landlord may not use the processes of the court to evict a tenant in retaliation for that tenant's reporting of Housing Code violations. In a subsequent proceeding in that same case another judge of the same court refused to permit the introduction of any evidence relating to the landlord's motives, effectively overruling Judge Green's landmark decision. In this case the NCACLU will be working with attorneys from the Neighborhood Legal Services Project, who are representing the tenant.

Volunteer attorneys Robert Weinberg, Herschel Shanks, Philip Hirschkop, Tom Smith, Michael McKenzie and Armin Rosencranz stood by, at the request of the Committee of a Sane Nuclear Policy, to provide legal assistance for any demonstrators arrested for exercising their First Amendment rights during the peace demonstration. Fortunately, there were only a few isolated arrests, none of which required immediate NCACLU action. However, we have since received two requests for assistance, and these cases are being processed by the Lawyers Panel.

* * *

At a recent meeting the Loyalty-Security Committee changed its name to the Government Employment Committee to indicate the broader scope of the committee's concern: all civil liberties problems of particular interest to government employees. Problems currently facing the committee include cases of alleged racial discrimination, invasion of privacy, unfair preliminary conditions for employment, and abuses in the Loyalty-Security program.

If you wish to serve on the committee, contact Chairman Stanford Robins (298-5956).

CHAIRMAN

(Continued from page 2)

tion of the draft" and "delinquency") violate due process by reason of vagueness. Third, the procedures followed violate due process because no hearing was ever held, and because the reclassification was made prior to the determination that the students were "delinquent."

WE ARE VERY MOVING

Shortly after the first of the year, NCACLU and the Washington ACLU headquarters will be moving to larger offices where we can accommodate more volunteers for our increasing workload.

SO—we need more volunteers and we need furniture to go with them. Specifically, desks, chairs, work tables, bookcases, typewriters, cabinets and . . . frankly, anything you may have that would be useful.

If you have time or furniture to volunteer, please call 347-8826.

National ACLU Bulletin Reports:

NCACLU CHALLENGES FAILING OF SUFFERERS FROM ALCOHOLISM

NCACLU, with the cooperation of the Washington Area Council on Alcoholism, has undertaken to contest the common practice of imposing criminal sanctions on chronic alcoholics for public intoxication.

The defendant in the NCACLU's current case is DeWitt Easter, a 59-year-old plasterer who has been arrested 70 times for public intoxication since 1937. Despite the NCACLU's claim that he suffers from a disease and should be treated as a sick person rather than as a criminal, he was convicted in the District of Columbia Court of General Sessions and given a 90-day suspended sentence.

The NCACLU then took the case to the D.C. Court of Appeals. It upheld Easter's conviction on the ground that his intoxication was the result of "voluntary drinking" and that he was criminally responsible for it. The court did, however, criticize Congress for failing to provide an effective alcoholic rehabilitation program for the District.

Appeal has been granted in the U.S. Court of Appeals, and in November our brief was filed. The NCACLU points out that in 1964 there were 44,206 arrests for public drunkeness in the District, resulting in some 12,657 commitments to penal institutions. Eliminating traffic violations, this represents about 50% of the arrests, and 73% of the jailings in the District during 1964.

The ACLU and NCACLU have

(Continued on page 4)

TWO NEW BOARD MEMBERS APPOINTED

The resignations of Jacob Clayman and Ben Bagdikian from the NCACLU Executive Board were announced at recent board meetings. Elected to fill the vacancies were William Warfield Ross III, Attorney, and Mrs. Kathryn Stone, long-time ACLU member.

Mr. Ross has been an ex-officio member of the Executive Board for the past two years as Chairman of the Freedom of Communications Committee. He is a partner in the law firm of Wald, Harkrader and Rockefeller and is a most active and dedicated member of the Lawyers Panel.

Mrs. Stone has been a member of the Virginia House of Delegates for seven terms, and is retiring at the end of the present session. She is Director of the Program on Human Resources at the Washington Center for Metropolitan Studies.

ALCOHOLISM

(Continued from page 3)

also filed an amicus brief in a similar case on appeal in Durham, N.C. to the U.S. Court of Appeals. It involves a man convicted 203 times.

On September 28, Cooperating Attorney Peter Barton Hutt, who is handling the Easter case, testified for the Union before the House Committee on Interstate and Foreign Commerce. He explained that the ACLU believes the criminal conviction of a chronic alcoholic for public intoxication—an act he is powerless to avoid—is illegal.

We need . . .

—a volunteer who will take minutes at monthly board meetings which are held during the evening.

—Typists who will type briefs on an emergency basis, either in our office or at home.

REPORT

(Continued from page 1)

declared unconstitutional on its face six months earlier. Bail was set at $500 for most of them; for some, high school students living with their families in the parish, bail was set at $1,500. They spent over a week in jail before the money could be raised. Fortunately, we were able to prevent this travesty of justice from being carried to its conclusion.

Although we were in the courthouse defending clients involved in the state's criminal processes, in this case and others, we were impeded and harassed by the sheriff and prosecutor. Things became worse as time progressed. Finally, one of the lawyers was arrested in the sheriff's office for disturbing the peace when he failed to respond quickly enough to a deputy's snarled command to "git out on the street."

It was easy to see why the sheriff became more tense with each of our visits. Legal representation for Negroes would fundamentally change the "southern way of life" as he knew it, because the southern way of life rests, in part, on a perversion of the legal process: arbitrary arrest; bail administered as a mode of punishment; occasional violence for the purpose of intimidation. The Constitution, a troublesome document for the police at best, might have some meaning in Jonesboro if there were lawyers there to insist that law enforcement officers conform to its standards. The availability of legal counsel for southern Negroes would substantially affect the daily life of the Negroes and the sheriff's way of doing business.

At present there are almost no lawyers in Louisiana who will handle a case that has the taint of civil rights. The closest one to Jonesboro, a Negro, is in Shreveport, a hundred miles away. The handful of lawyers in Jonesboro would not consider defending a civil rights defendant. The only way that the constitutional guarantee of effective assistance of counsel can even be approximated, at the present time, is by participation of out-of-state lawyers.

CAPITAL C.L.U. NEWS
National Capital Area
Civil Liberties Union
Suite 803
1101 Vermont Avenue, N.W.
Washington 5, D.C.

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Mr. Tolson ✓
Mr. DeLoach
Mr. Mohr
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Mr. Wick
Tele. Room ✓
Miss Holmes
Miss Gandy

NATIONAL CAPITAL AREA CIVIL LIBERTIES UNION

GENERAL MEMBERSHIP MEETING

Monday, January 17, 1966

7:30 P.M.

National Lawyers Club

1815 H Street, N.W.

AMERICAN CIVIL LIBERTIES UNION

Briefing of activities will be presented by:

Stanford Robins of the Government Employment Committee

Richard Barnet of the Housing Committee

Bernard Scholz of the Welfare Committee

Case reports will be given by members of the Lawyers Panel.

This is your opportunity to learn in detail about activities involving the organization you support

Plan now to join your fellow members in

COFFEE - CONVERSATION - DISCUSSION

Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Mr. Walker
Tele. Room
Miss Holmes
Miss Gandy

Buffalo, New York
January 12, 1966

PERSONAL

Mr. J. Edgar Hoover
Federal Bureau of Investigation
Washington, D. C.

Dear Mr. Hoover:

I am enclosing for your information an article covering my release to the "Buffalo Evening News" replying to the unjust attack on you and the FBI by [redacted] of the American Civil Liberties Union. Mr. Paul Neville, Managing Editor of the "Buffalo Evening News," personally advised me by telephone that he was delighted that I replied to [redacted] He said it was his feeling that there are too many people trying to undermine you and that on each occasion that they try to attack you there should be a rebuttal. Neville stated he was in complete accord with your policies and that he would help the FBI in any way possible.

b6
b7C

I am also enclosing a copy of an editorial which was aired on WGR Radio, Buffalo, on January 7, 1966, which I thought might also be of interest.

I want to assure you that I will continue to defend you and the Bureau on each occasion of an unjust attack.

Sincerely,

Victor Turyn

Victor Turyn

ORIGINAL FILED IN 94-8-2460-146

2 - Enclosures
1/12/66
Ltr to Neville
DeLoach, dfp

61-190-
NOT RECORDED
176 FEB 1 1966

Encs 2

JAN 27 1966

Ltr Neville
Mailing List
1-24-66 gg
Change Noted

421810

ack 1/25/66
cmd 1/26/66
dfp

January 26, 1966

61-190-

Honorable Paul Neville
Managing Editor
Buffalo Evening News
218 Main Street
Buffalo, New York 14202

Dear Mr. Neville:

Mr. Victor Turyn has advised me of the generous remarks you made in connection with his letter rebutting [redacted] of the American Civil Liberties Union. Your offer to be of assistance is indeed appreciated and I want to take this opportunity to thank you for your continued support of this Bureau.

Sincerely yours,
J. Edgar Hoover

b6
b7C

ORIGINAL FILED IN 94-8-2760-146

1 - Buffalo [redacted]

NOTE: Correspondent is on the Special Correspondents' List. Bulet to SAC, Buffalo expressed appreciation for his action; however, it was pointed out that he should have submitted his proposed reply in this case to the Bureau for approval before doing so. For this reason, a letter is not being directed to Turyn at this time.

DTP:dfn
(5)

Tolson
DeLoach
Mohr
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Wick
Tele. Room
Holmes
Gandy

FEB 4 1966

MAIL ROOM ☐ TELETYPE UNIT ☐

MAILED 12
JAN 27 1966
COMM-FBI

421811

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

Tolson
DeLoach
Mohr
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Wick
Tele. Room
Holmes
Gandy

TO : Mr. Wick

DATE: 1/14/66

FROM : M. A. Jones

SUBJECT: [redacted]
AMERICAN CIVIL LIBERTIES UNION
NIAGARA FRONTIER CHAPTER
BUFFALO, NEW YORK

b6
b7C

62; b7C

By letter dated 1/10/66, SAC Turyn of the Buffalo Office forwarded a newspaper clipping from the "Buffalo Evening News" of 1/5/66 in which captioned individual criticized public statements made by Government officials regarding Government policy in Vietnam. Included in the criticism by [redacted] were the comments of the Director in the letter dated October 22, 1965, to Lieutenant [redacted] and remarks of Assistant to the Director DeLoach in his speech of December 14, 1965, at Chicago, Illinois. The SAC, Buffalo, also forwarded a copy of a strong rebuttal which he had prepared and furnished as a Letter to the Editor of the newspaper against this unwarranted attack. Mr. Tolson inquired whether Turyn got approval here for this.

Mr. [redacted] of the American Civil Liberties Union was absolutely wrong in his comments and SAC Turyn assumed the personal initiative of refuting his statements on the spot and did not previously submit this item to the Bureau for approval. Mr. [redacted] particularly criticized the Director's quotation in the letter to Lieutenant [redacted] that for the most part those engaged in anti-Vietnam demonstrations are "composed of halfway citizens who are neither morally, mentally nor emotionally mature." He also attacked Mr. DeLoach for his reference to "arrogant non-conformists" and for the statement that "campus and street demonstrations were a disgrace."

SAC Turyn has done an admirable job in publicizing the activities and accomplishments of the FBI in the Buffalo Office through all facets of news media including newspapers, radio and television. It appears that in this instance he let his personal feelings dictate his immediate defense of the Bureau's correct position, whereas, he should have first submitted his reply for the newspaper to the Bureau for prior approval.

REC-69 61-190-1139
EX-100

14 JAN 18 1966

Enclosure 1-14-66

1 - Mr. DeLoach - Enclosure
1 - Mr. Wick - Enclosure
1 - Mr. M. A. Jones - Enclosure

LJH:mjl (7)

Continued ...

4211819

55 FEB 1 1966

PERS. REC. UNIT

CRIME RESEARCH

M. A. Jones to Wick Memo
RE: [redacted]

b6
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Bufiles reflect that [redacted] has been affiliated with the American Civil Liberties Union in the Buffalo area and has been a member of the law firm of Lipsitz, Green and Fahringer, Buffalo, New York. He has represented on many occasions individuals in this Buffalo area affiliated with subversive groups or causes. Bufile 100-412479-95, 96, reflects that he wrote a letter to the Buffalo Office dated 7/29/64 for any information available concerning FBI reports regarding his client, one Paul Sporn, who had been discharged from a teaching position at the State University at Buffalo, New York, for a false statement on an application concerning previous Communist Party membership. [redacted] was advised by letter from the Buffalo Office of the confidential nature of the FBI files. As an additional example, he represented one Joseph Pranis, an alleged member of the Progressive Labor Movement, who was a hostile witness for the House Committee on Un-American Activities at Buffalo on April 29-30, 1964. (100-291904-28) A wire service press release of July 15, 1964, reported that Attorney [redacted] was filing a suit in Federal court on behalf of five teachers of the State University of New York, attacking the constitutionality of the schools' requirement that its teachers sign a non-communist oath. (61-7558-A)

RECOMMENDATION:

That the attached letter be approved and forwarded to the SAC, Buffalo, for his future reference.

421821

SAC, Buffalo 1/14/66

Director, FBI 61-190-11440

REC-117

[redacted]

MISCELLANEOUS - INFORMATION CONCERNING b6 b7C

Reurlet 1/10/66 enclosing a copy of the news item by [redacted] in the "Buffalo Evening News" of 1/5/66 and your reply thereto.

Your recognition of this unwarranted attack and the necessity of taking prompt action in this matter is appreciated. Likewise, your intense personal interest in emphasizing the accuracy and propriety of the statements of Mr. DeLoach and me is commendable. However, for your future information, you should submit to the Bureau for approval your proposed reply in matters of this nature.

JAN 14 3 58 PM '66 RECD-READING ROOM FBI

MAILED 2 JAN 14 1966 COMM-FBI

NOTE: See M. A. Jones to Wick Memo dated 1/14/66 captioned, "[redacted] AMERICAN CIVIL LIBERTIES UNION, NIAGARA FRONTIER CHAPTER, BUFFALO, NEW YORK."

Tolson
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Callahan
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Trotter
Wick
Tele. Room
Holmes
Gandy

1 - Mr. DeLoach (sent with cover memo)
1 - Mr. Wick (sent with cover memo)
1 - Mr. M. A. Jones (sent with cover memo)

LJH:mjl (8)

FEB 4 1966

MAIL ROOM ☐ TELETYPE UNIT ☐

421812

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-107-02

UNITED STATES GOVERNMENT

Memorandum

TO : Director, FBI
Attn: Crime Records Div.

DATE: 1/10/66

FROM : SAC, Buffalo (80-0)

SUBJECT: [redacted]
MISCELLANEOUS - INFORMATION CONCERNING

b6
b7C

Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Mr. Wick
Tele. Room
Miss Holmes
Miss Gandy

Reference is made to news item in the "Buffalo Evening News," on 1/5/66, based on a statement issued by [redacted] of the Niagara Frontier Chapter of the American Civil Liberties Union.

Enclosed is a copy of a press release issued by the SAC in answer to the unwarranted statements made by [redacted] against Director HOOVER and Assistant to the Director C. D. DeLOACH.

Did Evans get approval here for this?

ENCLOSURE

2 - Bureau (Enc. 2)
2 - Buffalo (1- 100-2406 ACLU)
VT:MKC
(4)

REC-117

Spoke to Wick Tuesday 1-14-66
Acknowledged to SAC 1-14-66 JMM

61-190-1140

25

10 JAN 11 1966

JAN 11 1966

FBI
REC'D-WDHQ

JAN 12 15 32 MN '66

FBI
REC'D-WDHQ

JAN 12 15 00 MN '66

FBI
REC'D-WDHQ

421813

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

Buffalo, New York 14202
January 8, 1966

PRESS RELEASE

(Letter To The Editor)

Dear Editor:

Unfounded conclusions do not merit comment but when they involve an unjust attack upon an individual or a group they warrant public scrutiny as to facts and motive. John Edgar Hoover and the FBI have been unjustly attacked in such a manner by a learned spokesman for a civil liberties group. The facts and motive are therefore proper subject matter for public questioning.

The local spokesman recently concluded in a public statement that there exists a "frightening campaign at various levels of government to intimidate and discourage free discussion, expression and debate about the U. S. involvement in Viet Nam...." He arrived at this conclusion by way of carefully selected statements made by three Federal officials. Two of these individuals happen to be FBI officials, namely Director Hoover and his Assistant C. D. DeLoach. The spokesman has further concluded therefrom that "government officials have no business threatening reprisals against those who express these views."

421815

RECORDED 61-190 1140

The statements attributed to Mr. Hoover and Mr. DeLoach are the opinions of two officials of the FBI. Neither statement refers to FBI policy or procedures. The civil liberties spokesman singled them out and impugned meanings to serve a specific purpose. Perhaps the spokesman implies that he would deny these citizens their right to dissent, to disagree and to express their right to dissent, to disagree and to express their opinions. Freedom of speech is still a right enjoyed by every person living in the United States.

The motive behind this attack upon the FBI is not known. However, the spokesman chose to overlook Mr. Hoover's statement of November 1, 1965, which reads:

"There is no question but that the right of dissent and the right to petition for redress of grievances are absolutely essential to the security of a free people. But the very life of liberty requires that these rights be asserted in a lawful manner. Civil disobedience and the unwillingness of many to resolve their differences by established legal means will surely lead to the destruction of the institutions which protect their freedoms."

This attack upon the FBI by a civil liberties spokesman has brought to mind the book entitled,

421816

"The Noblest Cry: A History of the American Civil Liberties Union" by Charles Lam Markmann. In the dedication, the author took pains to put Richard Nixon, Barry Goldwater and John Edgar Hoover in the same category with George Lincoln Rockwell, Gerald L. K. Smith and William Dudley Pelley as alleged enemies of freedom. The local civil liberties group has publicly disclaimed Markmann as being an official spokesman for the organization.

The technique used by Markmann in linking Director Hoover with enemies of freedom is strikingly similar to the method used by the civil liberties spokesman in linking the FBI with a so-called "frightening campaign" and "threatening reprisals."

Any reader desiring the full text of any public statement by John Edgar Hoover can obtain the same by directing a letter to me.

Very truly yours,

Victor Turyn

VICTOR TURYN
Special Agent in Charge

421817

FD-350 (Rev. 7-16-63)

(Mount Clipping in Space Below)

Free Discussion On War Is Curbed, ACLU Head Says

Free discussion about U. S. Government policy in Viet Nam is being discouraged by a "frightening campaign" waged by various levels of government, Richard Lipsitz, chairman of the Niagara Frontier Chapter of the American Civil Liberties Union, charged today in a letter to The Buffalo Evening News.

He said the campaign has been directed "only at those who criticize and condemn that involvement" in Viet Nam.

Following is the complete text of his statement:

"The frightening campaign, at various levels of government, to intimidate and discourage free discussion, expression and debate about the United States involvement in Viet Nam has been directed only at those who criticize and condemn that involvement.

Quotes FBI Letter

"About a month ago, the director of the Federal Bureau of Investigation labeled most participants in demonstrations protesting United States involvement in Viet Nam as 'halfway citizens.'

"According to a UPI release of Dec. 1, 1965, he sent a letter to a former FBI employe, with the Marines in Viet Nam, stating that those engaged in anti-Viet Nam demonstrations are for the most part 'composed of halfway citizens who are neither morally, mentally, nor emotionally mature.'

"Several weeks after that, an employe of the FBI, sometimes described as his heir apparent, one C. D. DeLoach, speaking in Chicago, also attached protestors against the United States Viet Nam policy.

Cites Hershey Directive

"He referred to them as 'arrogant non-conformists,' and stated that campus and street demonstrations were a disgrace. (New York Times, Chicago, Dec., 14).

"And even more recently, the Selective Service Director, Lewis B. Hershey, has now decided that students who engage in demonstrations, which he claims unlawfully violate the Selective Service Law, should be punished by reclassification to 1-A.

"Regardless of one's views concerning present United States Viet Nam policy, government officials have no business threatening reprisals against those who express their views.

Applauds News Editorial

"Your editorial, entitled 'Wrong Remedy,' Dec. 23, 1965, is, therefore, a welcome breath of fresh air for its statement of the need for due process in these difficult times.

"We applaud especially that portion which states, 'but the enforcement (of the Selective Service Laws) should be through due process of law — that is, through regular arrest, prosecution and conviction—not through punitive inductions.'

"Your sober words are a reminder that so long as the United States purports to remain a system governed by laws and not by the arbitrary whims of authoritarian minded individuals, due process of law is a doctrine to be applied in tranquil, as well as in difficult, times."

(Indicate page, name of newspaper, city and state.)

53

Buffalo Evening News
Date 1/5/66
Edition CF
Buffalo, N. Y.
Editor
Buffalo Office
cc Bureau 1/5/66
JAY

Date:
Edition:
Author:
Editor:
Title:

Character:
or
Classification:
Submitting Office:

☐ Being Investigated

61-190-1140

ENCLOSURE

421818

February 9, 1966

REC 36 61-190-1144

X-102

[redacted]

Yakima, Washington 98902

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b7C

Dear Mrs. [redacted]

Your letter of February 2nd has been received, and I want to thank you for giving me the benefit of your observations.

Due to the confidential nature of information contained in our files pursuant to a regulation of the Department of Justice, I cannot be of assistance in response to your specific questions. I am, however, enclosing some material on the general topic of communism which I trust you will find of interest. Perhaps you may also wish to read my books, "Masters of Deceit" and "A Study of Communism." These were written to help readers gain an insight into the strategy and tactics of communists, both in this country and abroad. Copies may be available at your local library.

FEB 9 3 03 PM '66
FBI
RECD-READING ROOM

Sincerely yours,

MAILED 6
FEB 9 1966
COMM-FBI

J. Edgar Hoover

Enclosures (4)
The Faith of Free Men
Counterintelligence Activities
Excerpt from Appropriations Testimony of 3/4/65 on Communist Party, USA
Let's Fight Communism Sanely
1 - Seattle - Enclosure

NOTE: There is no information in Bufiles identifiable with correspondent.
KLS:bsn (4)

Tolson
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Holmes
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60 FEB 17 1966

MAIL ROOM ☐ TELETYPE UNIT ☐

February 2, 1966

Mr. J. Edgar Hoover
Federal Bureau of Investigation
Washington, D. C.

Dear Sir:

I would appreciate any information you could send me concerning the American Civil Liberties Union. What is it's known connection, if any, with the Communist Party.

Everyone having the right to the protection of their civil liberties is, of course, very important. However, all the conflicting views that are heard are very confusing to the average citizen and it is easy to be swayed one way or the other without complete information, and sometimes even when you do have complete information.

Some people, including the "John Birch Society" use the A.C.L.U. synonymonously with Communism and have given a black eye to some seeking offices and to teachers, specifically, who seem to be quite involved with the A.C.L.U. I have heard and read in the news of a P.T.A. on Washington's West Coast showing a film of the Watts's riot, and how communists instigated this riot and someone said that the A.C.L.U. had a film showing the opposite view, that the communists had nothing to do with it. Is it up to them to protect the Communist Party or only someone who is accused of being a communist? I find it hard to belleve that the Watts Riot was not just a horrible thing of the moment that got out of hand due to many things, but it is always a situation that the Communists take advantage of and try to turn to their advantage.

EX-102 REC 86 61-190-1141

What is the present status of Communist infiltration of different facets of our society today- particularly the teaching profession and the unions?

Thank you very much for your time and trouble.

11 FEB 10 1966

Very truly yours,

[redacted]
Yakima, Washington

[redacted]
YAKIMA WASH
98902

b6
b7C

2/9/66

CORRESPONDENCE

NEW YORK CIVIL LIBERTIES UNION

156 FIFTH AVENUE NEW YORK, N.Y. 10010 WATKINS 9-6076

VICTOR S. GETTNER, CHAIRMAN
ARYEH NEIER, EXECUTIVE DIRECTOR
HENRY M. DI SUVERO, ALAN H. LEVINE, STAFF COUNSEL

February 23, 1966

Dear Member:

On February 21, the New York State Senate, by a vote of 34 to 28, passed a bill which would impose criminal penalties on a citizen who resisted an illegal arrest.

In the 1965 session, the bill's sponsor, Senator Thomas Laverne of Rochester, publicly blamed NYCLU for defeating the bill. He was right. Nothing we accomplished all year gave me greater personal satisfaction.

If this naked police power grab is to be defeated again in 1966, it will be in the State Assembly. Please contact your assemblyman immediately urging him to oppose this bill.

A copy of NYCLU's Legislative Memorandum #12, which has been sent to all legislators in opposition to this bill, is enclosed. On the reverse side of this legislative memorandum, you will find a list of all assemblymen. Your Assembly District number appears on your voter registration card.

And again, please contact your assemblyman. Your help is crucial.

Sincerely,

Aryeh Neier

Aryeh Neier
Executive Director

AN:ar
enclosure

ENCLOSURE

REC. 11
EX-104

61-190-11142

16 MAR 10 1966

"ENCLOSURE ATTACHED"

421804

55 MAR 24 1966

NYCLU BOARD OF DIRECTORS

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ACLU NATIONAL COMMITTEE

Chairman
Francis Biddle (D.C.)

Vice Chairmen
Howard F. Burns (Ohio)
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Upstate New York Division Office: 952 Main Street, Buffalo, N.Y. 14202 • Mrs. Dorothy Shields, Director
Albany Office: 29 Elk Street, Albany, N.Y. 12210 • Jack D. Harvey, Legislative Representative

252

Form letter dated 2-22-66, from:

Aryeh Neier
Executive Director
New York Civil
Liberties Union
156 East Eighth
New York, New York
10003

421805

61-190-1/1/2

ENCLOSURE

61-190-1142

NEW YORK CIVIL LIBERTIES UNION

156 FIFTH AVENUE NEW YORK, N.Y. 10010 WATKINS 9-6076

January 31, 1966

LEGISLATIVE MEMORANDUM NO. 12

To: Committee on Codes—New York State Senate
Committee on Codes—New York State Assembly

From: Aryeh Neier, Executive Director

Subject: S.I. 773 (Pr. 776) — Laverne
A.I. 3749 (Pr. 3824) — Volker

AN ACT to amend the code of criminal procedure, in relation to certain peace officers designated as police officers and the use of force resisting arrest.

THIS BILL IS DISAPPROVED.

This bill would prohibit the reasonable use of force to resist an unlawful arrest. It seeks to undo the effects of a long line of cases (*People* v. *Cherry,* 307 N.Y. 308; *People* v. *McNeil,* 15 N.Y. 2d 717; *People* v. *Dreares,* 15 A.D. 2d 204; *People* v. *Pitcher,* 9 A.D. 24 1016) holding that a person has the right to resist and use reasonable force against police officers, to prevent an offense against his person.

The bill is directed against the person who resists a police officer enforcing an unlawful arrest. It is submitted that the present state of the law as enunciated by the Court of Appeals in *People* v. *Cherry, supra,* at 311, best serves the ends of justice and does not need to be changed:

> "The standard by which [a] defendant must be judged is phrased solely in terms of the physical necessities of the situation presented. If force is necessary to prevent an unlawful arrest, then force may be employed, the one limitation on its exercise being that the victim may not pursue his counter-attack merely for the sake of revenge or the infliction of needless injury. . . .
> "The investigation of crime does not require, and certainly does not justify, a disregard of basic rights on the part of law enforcement officials. The legislature has deliberately and carefully enacted legislation authorizing an arrest without a warrant in limited fact situations, and police officers may not ignore the law's demands because they believe that effective policing or the end in view calls for such conduct. It may well have been misguided zeal, not deliberate violation of law, that underlay and accounted for what the officers here did. But, whichever it was, it would be a travesty to adjudge the very victim of illegal arrest and the unprovoked attack guilty of the crime of assaulting his captors and assailants. The administration of justice would be ill served by such a result."

It is submitted that present civil remedies are inadequate. It does not seem fair or wise to subject a law-abiding citizen to criminal penalties for following a natural and restrained impulse to protect himself against an unlawful invasion of his privacy. Under the typical arrest syndrome, the illegally arrested citizen is charged with disorderly conduct, felonious assault, and resisting arrest. If this bill were adopted, the innocent defendant who succeeded in obtaining a dismissal on the felonious assault and disorderly conduct charges would, nevertheless, be found guilty of resisting arrest. This bill, by stripping the defendant of his affirmative defense to a police officer's admittedly unlawful arrest, would make criminal behavior which is now innocent.

The effect of this proposal might well be to make the police less scrupulous and less respectful of the rights of citizens with no countervailing public benefit. There is no reason for the police to be given such a carte blanche. The present law requires police officers to observe the law while enforcing it and encourages them to think before they act. Because this present proposal has the effect of encouraging police officers to act illegally to the detriment of the rights of innocent citizens, we oppose this bill.

The police at present are protected by the law when they act within it. The police, by education, training and experience, are better equipped to know the law than the average citizen. This knowledge, in addition to the greater power and authority which they wield, imposes an equivalent responsibility.

The facts in the Cherry case, *supra,* are instructive. The defendant was about to enter his home late at night. According to the Court of Appeals, he had done nothing improper —nothing even to excite suspicion. Suddenly he was accosted and seized by two people who claimed to be, and were in fact, police officers. These officers were guilty of an illegal arrest and an unlawful assault upon his person. The defendant resisted, but used no more than reasonable force. He was not afforded time for calm reflection in determining his course of action. In the lower court the policemen were not accused or tried. The defendant was convicted of assault. In reversing this conviction the Court of Appeals held that the defendant had a right to resist by the use of reasonable force an offense against his person. ". . . having abused the authority which was their trust, the officers stood bereft of their usual prerogatives. . . . an illegal arrest is an outrageous affront and intrusion—the more offensive because under color of law—to be resisted as energetically as a violent assault." (307 N.Y. 310, *supra*).

It may be, as advocates of this bill state, that police have difficulty knowing the law—but their familiarity is greater than that of the citizen. And most arrests are not within the marginal area.

It may be, as advocates of this bill state, that officers are obliged to make instantaneous decisions—but so does the citizen who is seized suddenly and without warning.

It may be, as advocates of this bill state, that officers should not be "fair game"—but neither should the citizen be subject to the officer's whim.

He who violates the law, be he officer or citizen, must accept the responsibility for his dereliction. That burden should not be shifted to the victim because the aggressor wears a badge.

(Over)

THE NEW YORK STATE ASSEMBLY

write to: Honorable John Doe
New York State Assembly
State Capitol
Albany, New York 12224

Dear Assemblyman Doe:

*District No.

SUFFOLK COUNTY
1 Perry B. Duryea, Jr. (R)
2 Peter J. Costigan (R)
3 Charles J. Melton (D)
4 Prescott B. Huntington (R)
5 Richard DiNapoli (R)
6 John G. McCarthy (R)

NASSAU-SUFFOLK COUNTIES
7 William L. Burns (R)

NASSAU COUNTY
8 Francis P. McClosky (R)
9 Martin Ginsberg (R)
10 Stanley Harwood (D)
11 Joseph M. Reilly (R)
12 Milton Jonas (R)
13 Arthur J. Kremer (D)
14 John S. Thorp, Jr. (D)
15 Joseph M. Margiotta (R)
16 John E. Kingston (R)
17 Abe Seldin (R)
18 George J. Farrell, Jr. (R)
19 Robert M. Blakeman (R)

NASSAU-QUEENS COUNTIES
20 Eli Wager (D)

QUEENS COUNTY
21 J. Lewis Fox (D)
22 Kenneth N. Browne (D)
23 Robert John Hall (R)
24 Moses M. Weinstein (D)
25 Frederick D. Schmidt (D)
26 Dr. Leonard Price Stavisky (D)
27 John T. Gallagher (R)
28 Martin Rodell (D)
29 Joseph J. Kunzeman (R)
30 Herbert J. Miller (D)
31 Alfred D. Lerner (R)
32 Stanley J. Pryor (D)
33 Jules G. Sabbatino (D)
34 Thomas V. LaFauci (D)
35 Sidney Lebowitz (D)
36 Thomas P. Cullen (D)
37 Joel Robert Birnhak (D)

KINGS COUNTY
38 Anthony J. Travia (D)
39 Samuel D. Wright (D)
40 Alfred A. Lama (D)
41 Leonard E. Yoswein (D)
42 Lawrence P. Murphy (D)
43 Max M. Turshen (D)
44 Stanley Steingut (D)
45 Shirley A. Chisholm (D)
46 Bertram L. Baker (D)
47 Joseph R. Corso (D)
48 Edward A. Kurmel (D)
49 Harold W. Cohn (D)
50 Gilbert Ramirez (D)
51 Gail Hellenbrand (D)
52 George A. Cincotta (D)
53 Bertram L. Podell (D)
54 Noah Goldstein (D)
55 Herbert H. Marker (D)
56 Salvatore J. Grieco (D)
57 Louis Kalish (D)
58 Joseph Kottler (D)
59 Dominick L. DiCarlo (R)
60 Robert F. Kelly (R)
61 James H. Tully, Jr. (D)
62 William J. Ferrall (D)

KINGS-RICHMOND COUNTIES
63 Joseph J. Dowd (D)

RICHMOND COUNTY
64 Lucio F. Russo (R)
65 Edward J. Amann, Jr. (R)

NEW YORK COUNTYY
66 Louis DeSalvio (D)
67 Jerome W. Marks (D)
68 Jerome Kretchmer (D)
69 William F. Passannante (D)

*Your Assembly District number appears on your voter registration card.

*District No.

70 Paul J. Curran (R)
71 John M. Burns (R)
72 S. William Green (R)
73 Albert H. Blumenthal (D)
74 Daniel M. Kelly (D)
75 Jose Ramos-Lopez (D)
76 Frank G. Rossetti (D)
77 Percy E. Sutton (D)
78 David N. Dinkins (D)
79 Mark T. Southall (D)
80 Orest V. Maresca (D)
81 John J. Walsh (D)

BRONX COUNTY
82 Kenneth J. Lyman (D)
83 Robert Garcia (D)
84 Herbert J. Feuer (D)
85 Seymour Posner (D)
86 Edward A. Stevenson (D)
87 Salvatore R. Almeida (D)
88 Alexander Chananau (D)
89 Robert Abrams (D)
90 Melville E. Abrams (D)
91 Burton G. Hecht (D)
92 Anhony J. Stella (D)
93 Anthony J. Mercorella (D)
94 Ferdinand J. Mondello (D)
95 Benjamin Altman (D)

WESTCHESTER COUNTY
96 Alvin M. Suchin (R)
97 Gordon W. Burrows (R)
98 Thomas J. McInerney (D)
99 George E. Van Cott (R)
100 Joseph R. Pisani (R)
101 Warren J. Sinsheimer (R)
102 Richard A. Cerosky (R)
103 Peter R. Biondo (R)

ROCKLAND COUNTY
104 Stephen G. Doig, Jr. (D)

ORANGE-ROCKLAND COUNTIES
105 Joseph T. St. Lawrence (D)

ORANGE COUNTY
106 Daniel Becker (R)

DUTCHESS-PUTNAM COUNTIES
107 Willis H. Stephens (R)

DUTCHESS COUNTY
108 Victor C. Wayas (D)

ULSTER COUNTY
109 Kenneth L. Wilson (R)

ORANGE-SULLIVAN-ULSTER COUNTIES
110 John S. McBride (R)

ALBANY-COLUMBIA-GREEN COUNTIES
111 Clarence D. Lane (R)

ALBANY COUNTY
112 Harvey M. Lifset (D)
113 Frank P. Cox (D)

RENSSELAER COUNTY
114 Douglas Hudson (R)

RENSSELAER-WASHINGTON COUNTIES
115 Lawrence E. Corbett, Jr. (R)

ALBANY-SCHENECTADY COUNTIES
116 John F. Kirvin (D)

SCHENECTADY COUNTY
117 Clark C. Wemple (R)

ALBANY-SARATOGA COUNTIES
118 Stanley L. Van Rensselaer (R)

CLINTON-ESSEX-FRANKLIN-WARREN COUNTIES
119 Richard J. Bartlett (R)

CLINTON-FRANKLIN COUNTIES
120 Louis E. Wolfe (D)

ST. LAWRENCE COUNTY
121 Verner M. Ingram (R)

FULTON-HAMILTON-HERKIMER COUNTIES
122 Donald J. Mitchell (R)

*District No.

FULTON-MONTGOMERY-SCHOHARIE COUNTIES
123 Donald A. Campbell (R)

DELAWARE-OTSEGO COUNTIES
124 Edwyn E. Mason (R)

BROOME COUNTY
125 George L. Ingalls (R)
126 Francis J. Boland, Jr. (R)

BROOME-CHENANGO-CORTLAND COUNTIES
127 Louis H. Folmer (R)

MADISON-ONEIDA COUNTIES
128 Harold I. Taylor (R)

ONEIDA COUNTY
129 William R. Sears (R)
130 Edward A. Hanna (D)

JEFFERSON-LEWIS COUNTIES
131 Donald L. Taylor (R)

JEFFERSON-ONEIDA-OSWEGO COUNTIES
132 Edward F. Crawford (R)

ONONDAGA COUNTY
133 James J. Barry (D)
134 John H. Terry (R)
135 Mortimer P. Gallivan (D)
136 Philip R. Chase (R)

CAYUGA-OSWEGO TOMPKINS COUNTIES
137 George M. Michaels (D)

TIOGA-TOMPKINS COUNTIES
138 Constance E. Cook (R)

CHEMUNG COUNTY
139 L. Richard Marshall (R)

STEUBEN COUNTY
140 Charles D. Henderson (R)

ONTARIO-SCHUYLER-YATES COUNTIES
141 Frederick L. Warder (R)

SENECA-WAYNE COUNTIES
142 Joseph C. Finley (R)

MONROE COUNTY
143 Donald C. Shoemaker (R)
144 Hastings S. Morse, Jr. (R)
145 S. William Rosenberg (R)
146 James M. White (R)
147 James E. Powers (D)

MONROE-ORLEANS COUNTIES
148 Charles F. Stockmeister (D)

GENESEE-LIVINGSTON COUNTIES
149 James L. Emery (R)

ALLEGANY-CATTARAUGUS-WYOMING COUNTIES
150 Frank Walkey (R)

NIAGARA COUNTY
151 V. Sumner Carroll (R)
152 Gregory J. Pope (D)

EIRIE-NIAGARA COUNTIES
153 Lloyd J. Long (R)

ERIE COUNTY
154 James T. McFarland (R)
155 Chester R. Hardt (R)
156 Francis J. Griffin (D)
157 Arthur Hardwick, Jr. (D)
158 Stephen R. Greco (D)
159 Charles E. Hogg (R)
160 Albert J. Hausbeck (D)
161 John B. Lis (D)
162 Julius Volker (R)
163 Dorothy H. Rose (D)

CATTARAUGUS-CHAUTAUQUA COUNTIES
164 Jesse J. Present (R)

421807 (Over)

DO-6

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

March 8, 1966

The attached publication was sent to the Director by the National Capital Area Civil Liberties Union, 1424 16th Street, N. W., Washington, D. C.

No reference is made to the Director or the FBI.

crt

MR. TOLSON
MR. DELOACH
MR. MOHR
MR. WICK
MR. CASPER
MR. CALLAHAN
MR. CONRAD
MR. FELT
MR. GALE
MR. ROSEN
MR. SULLIVAN
MR. TAVEL
MR. TROTTER
MR. JONES
TELE. ROOM
MISS HOLMES
MRS. METCALF
MISS GANDY

421902

CAPITAL C.L.U. NEWS

NATIONAL CAPITAL AREA CIVIL LIBERTIES UNION

An Affiliate of the American Civil Liberties Union

SUITE 501 • 1424 16th STREET, N.W. • WASHINGTON D.C. 20036 • HU 3-3830

VOL. V, NO. 1 FEBRUARY 1966

Special Board Meeting Discusses Peacetime Draft, Conscientious Objection

At a special meeting January 5, the NCACLU Executive Board discussed various statements and position papers sent to affiliates for comments by the national ACLU on peacetime conscription and conscientious objection to a particular war.

There was consensus that ACLU should insist that the military case for continuing a draft be open to full debate by the public and Congress and that past studies be re-examined and alternatives to meet military manpower needs be explored. Examples of such alternatives might be the encouragement of voluntary recruitment with bonus pay and awards for extrahazardous assignments as are granted presently for submarine and aviation service.

Dissatisfaction was expressed with operation of the selective service system, with its disproportional burden on young Negroes and the poor generally, who are not in college or are without wives and children.

The Board voted to recommend that ACLU adopt as "a statement of principles" the propositions opposing a compulsory peacetime draft as set forth in its paper, "Draft ACLU Statement on Conscription." It also recommended that premium payment for dangerous duty was a fairer method than the draft for obtaining necessary personnel.

After intensive debate, the Board voted 8 to 7 (with the tie broken by the Chairman) to recommend that ACLU recognize, and ask the U.S. Government to recognize, conscientious objection to a particular war on the same basis as conscientious objection to all wars and warfare.

(Continued on page 2)

CHAIRMEN REPORT AT MEMBERSHIP MEETING

Three committee chairmen and several members of the Lawyers Panel brought the NCACLU membership up-to-date on their intents and activities at the well-attended January general meeting.

Now Read This!

SPRING MEETING

The next general membership meeting of the NCACLU will be held Thursday, March 31st, in the Washington Gas Light Auditorium, 1100 H St., N.W. at 8 p.m.

Committee Chairmen reporting at this last meeting until next Fall, will be William W. Ross, Freedom of Communication; Arthur Cohen, Mental Health; Willis Jourdin, Church-State and James Siena and members of the Lawyers' Panel who will report on current cases.

JOB OPENING: ATTORNEY WANTED

NCACLU is looking for a staff attorney to handle the increasing requests for legal aid and to assist the affiliate's chairman. The position will be open as of July 1. Applicants should send résumés to David B. Isbell, National Capital Area Civil Liberties Union, 1424 16th St., N.W., Washington, D.C. 20036.

WE'VE MOVED

All members are invited to visit our new offices—you will not be asked to give, only to receive. The staff would like to meet you, offer you a cup of coffee and show you around. Come anytime, Monday through Friday, from 9 a.m. to 5 p.m. to Suite 501, 1424 16th St., N.W., Washington, D.C. 20036—HU 3-3830.

Richard Barnet, Chairman of the Housing Committee, reported that discrimination in housing and civil liberties problems deriving from the proceedings and regulations of the Landlord and Tenant Law, are the two areas of present concern to his committee. The Human Relations Council has not been effectively enforcing the District Fair Housing Regulations, passed two years ago, he explained, and the NCACLU in conjunction with other civil rights groups, has been working on amendments to the regulations. One proposal would deny licenses to District landlords and real estate agents who willfully practice discrimination in Virginia and Maryland—a practice permitted under present rules.

The Committee is also working to outlaw retaliatory convictions which frequently occur after a tenant has complained to the landlord or asked for a city inspection to check on possible violations of the housing code.

Chairman of the Welfare Committee Bernard Scholz, who is Special Assistant to the Administrator of the Children's Center at Laurel, Md., outlined the structure of the District Welfare Department and explained the historic relationship between civil liberties and welfare programs. His committee is presently investigating the "reasonableness" of the Welfare Department's "man-in-the-house" rule which takes a family off relief if a man is found living with a woman even though he is neither her husband nor the father of her

(Continued on page 3)

Vol. V, No. 1 **Capital CLU News** February 1965

Newsletter of The National Capital Area Civil Liberties Union

STAFF THIS ISSUE

Barbara Kraft, Editor; Vera Newman, Judith Friedman, Constance Harris

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FROM THE CHAIRMAN

by Monroe H. Freedman

Since the last newsletter, NCACLU has argued or received opinions in a number of important civil liberties cases that have received national attention.

In the **Loving** case, NCACLU volunteer attorneys Bernard S. Cohen and Philip J. Hirschkop argued before the Supreme Court of Appeals of Virginia that it is unconstitutional for the state to prohibit interracial marriages. This may well be the historic case that invalidates all such legislation in the United States.

In the **Harper** case, NCACLU Executive Board member Allison W. Brown, Jr., and Lawrence Speiser, Director of ACLU's Washington office, argued in the Supreme Court of the United States that the Virginia poll tax is unconstitutional. This case anticipated a similar attack on the poll tax by the Department of Justice, and might also have national impact.

In the **Stone** case, NCACLU volunteer attorney Michael D. Padnos argued on behalf of a poet accused of reading "obscene" poetry in a coffee house. In addition to protecting artistic expression, this case could severely limit the use of disorderly conduct ordinances to infringe on freedom of speech.

In the **Kent** case, NCACLU volunteer attorneys Myron G. Ehrlich and Richard Arens argued in the Supreme Court of the United States against serious violations of the rights of juvenile criminal defendants. This case raises Constitutional questions about the D.C. Juvenile Court's methods of permitting juveniles to be tried as adults.

The **Driver** and **Easter** cases have been argued by NCACLU volunteer attorneys Peter Barton Hutt and

Michael S. Horne. Both involve the constitutionality of imprisoning chronic alcoholics. In the former, the United States Court of Appeals for the Fourth Circuit held that it is a violation of the Constitution to base a criminal conviction on the drunkeness of a chronic alcoholic. In the latter case, the full bench (rather than just a panel) of the United States Court of Appeals for the District of Columbia Circuit heard argument and is preparing a decision. It is likely that these cases will reach the Supreme Court of the United States. In any event, they too can be expected to be of national significance.

Despite the wide publicity given to these cases, NCACLU has been given little, if any, credit in the press. This is particularly unfortunate because we rely entirely on membership contributions to support our activities. It is important, therefore, that NCACLU members inform their friends of this and other NCACLU work.

Our one-dollar-per-member drive for the Lawyers Constitutional Defense Committee has been an extraordinary success. Our commitment was for $3,000 (which was a large one as compared with other affiliates), and we have succeeded in raising over $4,000. In addition, our drive for increased dues and new members is already producing significant results.

We can take enormous pride in the generosity of our members and their dedication to civil liberties. However, we still have a long way to go to meet our present goal of doubling our dues income. If you have not yet renewed your membership, or if you have names of potential members to give to the office, we hope you will do so as soon as possible.

Letters to the Editor

I enjoyed your membership meeting held at the Lawyers Club. I do feel, however, that many of the members who are not lawyers, but have just as much interest in NCACLU, should be encouraged to a greater degree to participate in committees and other functions. I hope that in the future these non-legal members will be encouraged to help out as well.

—(Miss,) Gerta Steinfelt

NCACLU is to be congratulated on a fine program of activities, highlighted by periodic membership meetings which are interesting and enjoyable means of keeping up-to-date on the current doings of the affiliate. Members who have missed the past two meetings, should plan to attend in the future. In addition to the opportunity to get acquainted with NCACLU Board members is the very real benefit of hearing reports on the Committee activities, Lawyers Panel cases, and general progress of the group, the real basis for the success of NCACLU.

—Mary K. O'Melveny

BOARD MEETING

(Continued from page 1)

There was general agreement on the Board favoring the broadest interpretation of "conscientious objection" to include personal ethical grounds as well as religious or atheistic beliefs.

At the end of the meeting, the Board also decided, 7-4, that there is a violation of civil liberties if a person is prosecuted for a crime of which one element requires the act to be performed during "wartime," and for refusing to fight in a "war" not declared by Congress.

—CHARLES SLAYMAN

MEMBERSHIP MEETING (Continued from Page 1)

children. Also under investigation is the question of the extent relief funds instill a certain way of life, the possibility that the procedures by which investigators check on families' eligibility for relief is a violation of civil liberties, the awareness among the disadvantaged of their rights of due process procedures and the legal rules of juveniles.

Chairman Stanford Robins specified the main areas of concern to the Government Employment Committee as discrimination in employment opportunities, the Hatch Act, lie detection and psychological tests and fair hearings. Particular problems involve possible challenges to an individual's civil rights in the denial of security clearances.

James V. Siena, Chairman of the Lawyers Panel, reviewed the status of several major cases (see Chairman's Report, page 2) and Jerry Nelson and David Carliner brought the membership up-to-date on the Friedman case (challenging the Selective Service Board's right to act as a court in draft reclassification case) and the Millard case (challenging the basis for commitment of an individual to St. Elizabeth's for indecent exposure).

Committee Roundup . . .

The Housing Committee, under the direction of Chairman Richard Barnet, has completed its study on the Landlord-Tenant Court. The Committee's report calls attention to those practices of the court which involve civil liberty issues and includes specific recommendations for reform.

Bernard Scholz, Chairman of the Welfare Committee, is calling for volunteer attorneys, especially those who have had experience handling juvenile delinquency cases and night investigation abuses, those who have attended hearings before the Department of Welfare, and those who have worked for the Neighborhood Legal Center. If you wish to serve on this committee, contact Bernard Scholz, 3018 Crest Drive, Cheverly, Md.; tel. 776-7014.

The Government Employment Committee, under Chairman Stanford Robins, is planning a symposium on the Government Loyalty program and looking for qualified speakers. If you wish to participate, please call Mr. Robins (298-5956).

Arthur Cohen and Willis Jourdin have been appointed chairmen of the Mental Health and Church-State Committees respectively.

"The same old prescription?"

Save this date!

David Carliner Winner of Holmes Award

The annual Oliver Wendell Holmes Bill of Rights Award will be presented to David Carliner at a dinner to be held Thursday, May 19, at the Sheraton Park Hotel. Newspaper columnist Marquis Child will be the speaker at the event.

Mr. Carliner has long served the Washington community as an outstanding guardian of civil liberties and has been largely responsible for making our local affiliate an effective force both in local and national affairs. He was chairman of the NCACLU for its first three years and is presently a member of the Executive Board.

Lawyers Panel Luncheon

Henry Schwarzchild, Executive Secretary of the Lawyers Constitutional Defense Committee of ACLU, will be the featured speaker at an NCACLU Lawyers Panel luncheon to be held at the Presidential Arms, Wednesday, March 16 at 12 noon.

For reservations, call the NCACLU, HU 3-3830.

Nominees for May Election of Board of Directors

There are eleven positions to be filled on the Board of Directors of National Capital Area Civil Liberties Union in May, 1966, and according to our by-laws, "The Nominating Committee shall name a number of nominees no less than 150% of the total number of Board members to be elected." The seventeen names selected by the Nominating Committee appear below.

In addition, nominations can be made by petition of any ten members of NCACLU, accompanied by a signed statement by the nominee that he is willing to serve if elected, and received by the Secretary of NCACLU no later than April 1. The Secretary is Mrs. Harold Ickes, NCACLU, Suite 501, 1424 Sixteenth Street, N.W.

Ballots will be mailed in April.

Of the eleven board members to be elected, the first eight who get the most votes will be elected to three year terms. The next three will be elected to one year unexpired terms.

In the past we have had some complaints that not enough information was given to the membership about board candidates. This year we asked each candidate to give us a fairly full biography. However, it will come as no surprise to most of our members that our nominees exercised their usual freedom of thought and some refused to comply, claiming that biographical facts have little or nothing to do with a person's competence to run or serve effectively on the NCACLU board. We have respected their wishes.

Arthur Adkins, 3108 Craiglawn Road, Beltsville, Md. Associate Professor in Education, University of Maryland; in summertime recruits and trains students for Southern Christian Leadership Conference to work with voter registration programs in South. Organized meeting for social studies teachers at NCACLU annual meeting last May. Born Minneapolis 1918, educated St. Cloud Teachers College, M.A. and Ph.D., University of Minnesota, lived and taught in U.S. Northwest and Paraguay. Active in civil rights and professional and educational organizations.

Bernard S. Cohen, 495 Naylor Place, Alexandria. Volunteer attorney, NCACLU and former member of organizing and membership committee, NCACLU. Vice-chairman, Alexandria Democratic Committee; Vice President Northern Virginia Trial Lawyers Association. Member Budget Conference Committee, Health and Welfare Council. Director, Del-Ray Lions Club and former President, D.C. Chapter, C.C.N.Y. Alumni Association. Former Economist and Labor Law Adviser, U.S. Department of Labor. In general law practice in Northern Virginia since 1962. Graduate C.C.N.Y. (1956) and Georgetown University Law School (1960).

Paul Phillips Cooke, 1203 Girard Street, N.W. Member NCACLU Board, past National Chairman, American Veterans Committee, former Executive Secretary, Catholic Interracial Council of D.C. Lectures for U.S. State Department, U.S. Department of Labor International Trade Union Exchange Program, and Washington International Center on "Civil Rights and Minority Affairs." Professor of English, District of Columbia Teachers College (Acting Dean, 1962-64). Visiting Professorial Lecturer and Workshop Director, Intergroup Relations, Howard University each summer, 1954-65. Director, Public School education program for the disadvantaged 1964-65.

Dan H. Fenn, 4008 Everett Street, Kensington, Md. U.S. Tariff Commissioner and former Staff Assistant to President John F. Kennedy. Graduated Harvard 1944; Harvard Assistant Dean of Freshmen, Member of Faculty, Harvard Business School, Assistant Editor, **Harvard Business Review,** Editor, **Harvard Business School Bulletin,** editor 7-volume McGraw-Hill series of books on management. Former Executive Director, Foreign Policy Association, Boston, Mass., and Executive Director, World Affairs Council, Boston. In hometown, Lexington, Mass., was alternate delegate-at-large to the 1960 Democratic National Convention, member School Committee, Trustee Browne and Nichols School, and a Town Meeting Member.

Robert V. Fodor, 4515 Drummond Avenue, Chevy Chase, Md. Charter member, NCACLU, member ACLU since 1953. Member. United Brotherhood of Carpenters, AFL-CIO; United Automobile Workers (served in various elective capacities); Lodge 12, American Federation of Government Employees Executive Board. Civil Rights and Department of Labor Bargaining Committee, delegate to Washington Area Central Labor Bargaining Committee, delegate to Washington Area Central Labor Council. Member, Suburban Maryland Fair Housing, Inc.; helped organize interracial housing project in California, 1949. B.A. Pomona College, Claremont, Calif., M.A. Claremont Graduate School Employed U.S. Department of Labor.

James H. Heller, 3317 Rowland Place, N.W. Past Secretary and former Board member, NCACLU. Assistant General Counsel, Office of Economic Opportunity. Attended Harvard College and Yale University Law School. Was in private practice in Washington for over eleven years, with the Department of Commerce for a year, and went with OEO last March. Is on several committees of the D.C. Bar Association, a committee of the Jewish Community Council, and was a board member of the Washington Home Role Committee.

Rabbi Eugene J. Lipman, Temple Sinai, 3100 Military Road, N.W., Member of Board, NCACLU; lecturer in Religion, American University; board member, National Advisory Committee on Farm Labor, National Council on Agricultural Life and Labor, Promoting Enduring Peace; member, Commission on Social Action of Reform Judaism, Interreligious Committee on Race Relations. Co-author three books and frequent contributor to books and periodicals. Graduated University of Cincinnati, ordained Hebrew Union College, 1953; did graduate work in social psychology and individual psychology. Studied at Institute for Individual Psychology in N.Y. and completed work and clinical training in pastoral psychology, Bellevue Hospital.

Rudolph W. Nemser, Oakton, Va. Member, Executive Board, NCACLU, Vice-Chairman (for Virginia) NCACLU, and NCACLU Nominating Committee member 1965. Member, founding Board, NCACLU, and Worcester County (Mass.) chapter, ACLU. Harvard A.B. '50, S.T.B. '52, S.T.M. '53. Minister since 1960 Fairfax Unitarian Church. Former President and member of Board of Directors, Family Service of Northern Virginia; President and former member of Board of Directors and Executive Committee, Northern Virginia Family Service (successor FSNV); Member, Tenth Congressional District Regional Study Groups, Virginia Mental Health Study Commission, and member, Fairfax County Democratic Committee 1962-65. Member of Board of Directors, Fairfax County Council on Human Relations and Co-chairman of the Council's Public Affairs Committee. President, Greater Washington Unitarian Universalist Ministers Association.

Barrington D. Parker, 1130 6th Street, N.W. Member of the Board of NCACLU, D. C. Home Rule Committee, and of Northwest Settlement House. Member D. C. Republican State Committee. Former President, D. C. Federation of Civic Associations; former member D. C. Commissioners Human Relations Council; D. C. Board of Appeals and Review; Executive Board, D. C. Branch, NAACP. Graduate, University of Chicago Law School. Law practice since 1947, member D. C. Bar, and admitted to practice before the Supreme Court.

William Warfield Ross, 3320 Rowland Place, N. W. Member, NCACLU Board, Lawyers Panel, and Chairman, Freedom of Communications Committee. Cooperating attorney, ACLU 1958-1962. Served in President Truman's Executive Office, the Department of Justice, Federal Power Commission, and as Consultant to the Fund for the Republic. Member, Law Task Force, Mental Retardation Committee, D. C. Public Health Advisory Council; Council, Administrative Law Section and Special Committee on Code of Federal Administrative Procedure, American Bar Association; Chairman, Federal Agency Practice and Procedure Committee, D. C. Bar Association's Former Secretary, Federal Power Bar Association. On advisory board, Southwestern Law Journal. Graduate St. Johns College (1948) and Yale Law School. Partner, Washington law firm, Wald, Harkrader and Rockefeller.

Bernard W. Scholz, 3018 Crest Avenue, Cheverly, Md. Chairman, Welfare Committee, NCACLU. Charter member and Vice President, Prince Georges Fair Housing, member Advisory Committee, Metropolitan Washington Housing Program of American Friends Service Committee, served on Cheverly Mayor's Human Relations Committee. While D. C. Chief of Public Assistance, caused controversy by vocal advocacy of rights of the poor. Born in Germany 1904, moved to U.S. 1929, worked in public welfare administration in Pennsylvania, Iowa, Illinois, Maryland, D. C. During decade with Social Security Administration developed standards for fair housing in public assistance and reviewed observance by state agencies. Now special assistant to Administrator, D. C. Children's Center, Laurel.

I. F. Stone, 5618 Nebraska Avenue, N. W. Editor **I. F. Stone's Weekly,** long-time defender through newspaper columns and magazine articles of unpopular civil liberties positions. Founder and on advisory committee, Emergency Civil Liberties Committee, New York. Came to D. C. in 1940 as correspondent and editor of **The Nation,** correspondent for **P. M.** and its successors; wrote column and was editorial writer for **N. Y. Post.** Began **Weekly** in 1953. Author of six books, contributor to periodicals. Majored in philosophy, University of Pennsylvania.

(Continued on page 8)

TREASURER'S REPORT

Submitted herewith are NCACLU's statement of operations for 1965 and the budget for 1966, which has been approved by the Executive Board. A few comments on each may be appropriate.

Membership dues were far and away the most important source of the affiliate's income in 1965, and the 1966 budget relies almost equally heavily on dues for the revenue that will be needed to meet a greatly increased level of expenditure. In 1965, NCACLU's dues paying members, new and old, numbered 1,339 in the District of Columbia, 430 in Virginia, and 910 in Maryland, for a total of 2,679. The average amount of dues paid by renewing members was $17.04, which is slightly below the national average; the average for new members was about half this figure. Dues are shared with the national organization, and, in the case of members in Montgomery and Prince George's Counties, with the Maryland affiliate. The allocation formula is fairly complicated: in rough terms, the affiliate receives a little over one-half of its members' dues, but in the case of Maryland members, shares this half with the Maryland affiliate.

In 1965, the Executive Board pledged ten per cent of NCACLU's membership income for the year to support ACLU's newly-established Southern Regional Office. The sum paid pursuant to this pledge was $1,640.00. This, as much as any other factor, accounts for the operating deficit of $567.51. In addition, the financial result of the year's single benefit event was much below expectations, and the expenses of lawsuits supported by NCACLU were above them.

The net deficit for 1965 may prove to be substantially larger than the figure indicated, for the affiliate must return to ACLU $1,331.00, which represents an overpayment of the affiliate's share of membership dues resulting from an overly optimistic projection for the year. This return of funds to ACLU may be counterbalanced, in whole or in part, by a grant from ACLU's Robert Marshall Fund, which is used to pay litigation expenses in cases of particular importance. The Capitol Hill Peace Demonstrator cases which NCACLU handled involved a total expenditure of about $1,500.00—far above the cost of most of our cases—and application will be made for reimbursement of this cost from the Fund.

The 1966 budget involves an 85 per cent increase in total expenditures. The principal reason for this increase is the urgent need to hire a staff attorney and legal secretary, to help to handle the ever-increasing load of legal work falling upon both the chairman of the Lawyers Panel and the affiliate's chairman. It is intended to make these new positions effective July 1. In addition, NCACLU, along with ACLU's Washington office, has moved to new and larger quarters, where we shall not only be paying a larger rent, but also sharing with ACLU's Washington office the salary of a receptionist/secretary. The Executive Board also approved an increase in the salary of our devoted and indispensable Executive Secretary, Mary Chenoweth.

To meet these increased financial commitments, the affiliate will need a major increase both in new members, and in the dues paid by old members.

February 9, 1966

—David B. Isbell

NCACLU Statement of Operations 1965 and Budget 1966

	Actual 1965	Budget 1966
RECEIPTS		
ACLU dues	$16,294.00*	$28,000.00
Contributions**	279.71	900.00
Benefit events***	102.83	3,000.00
Interest	44.46	75.00
Total	$16,721.00*	$31,975.00
DISBURSEMENTS		
A. Administrative		
Salary	$ 6,250.20	$ 9,500.00
Taxes	449.95	475.00
Rent	804.00	2,400.00
Mimeo	909.14	1,000.00
Postage	1,764.02	1,750.00
Supplies	798.28	1,000.00
Telephone	285.63	400.00
Equipment & Service	200.25	400.00
Miscellaneous	67.33	75.00
Subtotal	$11,528.80	$17,000.00
B. Legal		
Printing and other expenses	$ 3,744.53	$ 4,000.00
Salary	—	7,500.00
Taxes	—	475.00
Subtotal	$ 3,744.53	$11,975.00
C. Membership & Development		
Membership lists	$ 651.33	$ 900.00
Membership drive	129.95	500.00
Annual dinner & luncheons***	123.95	—
Subtotal	$ 905.23	$ 1,400.00
D. Publications		
Newsletter	$ 808.05	$ 950.00
Other	42.00	50.00
Subtotal	$ 850.05	$ 1,000.00
E. Miscellaneous Activities		
Committees	$ 3.60	$ 50.00
Speakers bureau	—	50.00
Meetings & workshops	47.40	100.00
Delegates' expenses	157.50	300.00
Public education	50.40	100.00
Subtotal	258.90	600.00
Total	$17,287.51	$31,975.00
Net Surplus (or Deficit)	($ 566.51)	
Checking account balance 1/1/65		$ 4,445.04
Checking account balance 12/31/65	$ 1,419.34	
Savings account balance 12/31/65	2,500.00	
Total bank balance 12/31/65		3,919.34

*$1331 received as the affiliate's share of membership dues must be returned to ACLU as a result of monthly payments based on an overly-optimistic projection of the year's results.

**Does not include contributions to the Lawyers Constitutional Defense Committee. In response to a special appeal (as of 2/9/66), 1123 members contributed a total of $4,060.70 to LCDC.

***Net figures only are shown.

BIOGRAPHIES

(Continued from page 5)

Charles H. Slayman, Jr., 800 Fourth Street, S. W. On the NCACLU Board since 1962. Former legislative experience: Chief Counsel and Staff Director of the U. S. Senate Judiciary Subcommittee on Constitutional Rights; Special Counsel of the Senate Constitutional Amendments Subcommittee; Counsel, Immigration Subcommittee; and legislative assistant, Senator Herbert H. Lehman. Executive Director, American Veterans Committee and legislative representative, National Council on Agricultural Life and Labor. At present, government anti-trust attorney, Federal Trade Commission, and lecturer in political science, School of Government, George Washington University.

Kathryn H. Stone (Mrs. Harold A.), 1051 26th Road South, Arlington. Member of Board, NCACLU. Member Virginia General Assembly 1954-1966 where she was often alone in support of liberal causes. Member, Executive Committee, Washington Planning and Housing Association and Council of Churches, Greater Washington; Board member, Northern Virginia Family Services, Health Facilities Council of Metropolitan Washington, and Chairman, Arlington Committee for Economic Opportunity. Formerly on the national board and Vice President of the League of Women Voters, at present on the professional staff of the Washington Center for Metropolitan Studies where she is Director of the Program on Human Resources.

Mary Weaver (Mrs. George L-P.), 3819 26th Street, N. E. Member of NCACLU. Life member of NAACP and a member of the Board of Family Child Services Agency, Ionia Whipper Home, National Consumers League, Pastoral Institute and the National Association of Social Workers, American Public Welfare Association, American Public Health Association. Attended Howard University and the Columbia University School of Social Work.

Robert L. Weinberg, 3467 S. Wakefield Street, Arlington. Member NCACLU Board since 1964; Lawyers Panel (served as defense trial counsel in NCACLU cases); ad hoc committee for development of ACLU statewide organization in Virginia; testified for NCACLU at hearing on House bill to abolish capital punishment in D. C.; formerly chairman Due Process Committee. Member and officer, Arlington County Democratic Committee (chairman, standing committee on civil rights); member Northern Virginia Fair Housing, NAACP, D. C. Bar Criminal Law Committee, Junior Bar Bail Committee; visiting lecturer in criminal procedure, University of Virginia Law School.

Hal Witt, 3225 33rd Place, N. W. Since 1962 member of Board, NCACLU, and former Chairman, NCACLU Police Practices Committee and Discrimination Committee. In private law practice before joining United Planning Organization as staff counsel in 1965.

CAPITAL C.L.U. NEWS
National Capital Area
Civil Liberties Union
Suite 501
1424 16th Street, N.W.
Washington, D.C. 20036

6
7

J. Edgar Hoover
Dept. of Justice
Washington 25, D. C.

10 DIRECTOR
10 MAR 8 '66

PLEASE RENEW YOUR MEMBERSHIP TODAY

REC- 82 61- 190- 1147

March 21, 1966

EX-101

[redacted]
Omaha, Nebraska 68124

b6
b7C

Dear Mrs. [redacted]

Your letter dated March 17th, with enclosures, has been received.

In response to your question concerning the American Civil Liberties Union, the files of this Bureau are confidential in accordance with regulations of the Department of Justice, and I regret my inability to furnish the information you are seeking.

I am enclosing a copy of the Introduction to our FBI Law Enforcement Bulletin of January, 1965, which is the only material we have available for distribution regarding the subject of your communication.

MAR 21 4 44 PM '66
FBI
SEC'D-READING ROOM

MAILED 10
MAR 2 1 1966
COMM-FBI

Sincerely yours,

J. Edgar Hoover

John Edgar Hoover
Director

Enclosure

NOTE: No record in Bufiles regarding correspondent. On one of the clippings enclosed which concerns the American Civil Liberties Union, correspondent has written, "How about this group also?"

RWE:ncr (3)

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

MAR 30 1966
MAIL ROOM ☐ TELETYPE UNIT ☐

March 17, 1966

(circle on yellow)

J. Edgar Hoover
Director F. B. I.
Washington, D. C.

Dear Sir:

I am enclosing a clipping from our Omaha World Hearld Newspaper dated March 15, 1966 which concerns forming a Civilian Police Review Board for our city of Omaha, Nebraska.

I happen to be a member of the Human Relations Board and am very concerned at the trend it is taking. I am interested in seeing that minority groups are getting their legal and moral rights but the thinking of some of the members is going beyond what I thought the board was formed for.

Could you send me some unrefutable material on these Review Boards? I have read some literature about them which has not been good.

This morning I attended a lecture made by Dr. Kenneth McFarland at the University of Nebraska. I asked him afterwards where I might go for information about this subject. He suggested I write to you.

This information is needed before the 24th of March as this is the date of our next board meeting. If you can help in any way I would appreciate an immediate reply.

b6
b7C

Sincerely,

[redacted]

Omaha, Nebraska
68124

2 - ENCLOSURE

REC- 82 61-190-1144

MAR 23 1966

EX-101

mmd
ack 3-21-66

CORRESPONDENCE

FD-36 (Rev. 5-22-64)

FBI

Date: 3/2/66

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL REGISTERED MAIL (Priority)

TO : DIRECTOR, FBI (100-440833)

FROM : SAC, PHILADELPHIA (100-48094) (C)

SUBJECT: UNIVERSITIES COMMITTEE ON PROBLEMS OF WAR AND PEACE, aka
INFORMATION CONCERNING - IS
(C) American Civil Liberties Union

Re Philadelphia teletype to Bureau, 10/14/65, Philadelphia letter and letterhead memorandum to the Bureau dated 10/18/65, and Bureau letter to Philadelphia dated 2/9/66. (U)

Enclosed herewith for the Bureau are 14 copies of a letterhead memorandum captioned "UNIVERSITIES COMMITTEE ON PROBLEMS OF WAR AND PEACE (UCPWP)." This letterhead memorandum is to replace the letterhead memorandum previously submitted on 1/28/66. Necessary corrective action being taken at Philadelphia. (U)

The following sources were utilized in the letterhead memorandum: (U)

7 - Bureau (Encs.-14) (REGISTERED MAIL)
3 - 100-440833
1 - 105-138315 (VIDEM)
1 - 62-110039 (IUCDFP)
1 - (YAF)
1 - (ACLU)
1 - New York (CATHOLIC WORKER) (Enc.-1) (REGISTERED MAIL)
1 - Washington Field (ANNA LEE STEWART) (Enc.-1) (REGISTERED MAIL)
1 - Philadelphia (100-48094)

WSB:rdc/pck
(10)

100-440833-10

CHARGED FILED IN

61-190

CONFIDENTIAL

NOT RECORDED
202 MAR 15 1966

Infinite

CARBON COPY

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

EX-107

54 APR 6 1966

PH T-1 [redacted] to SA WILLIAM S. BETTS (U) b7D

PH T-2 [redacted] (U)

PH T-3 [redacted] b6 b7C b7D

San Francisco, Calif. (Per request)

PH T-4 [redacted] (U)

PH T-5 (U)

PH T-6 (U) b7D

PH T-7 NY 4047-S*

PH T-8 [redacted] (U)

PH T-9 (U)

PH T-10 (U)

PH T-11 to SA EDWARD A. SMITH (U)

PH T-12 (U)

PH T-13 [redacted] b6 b7C b7D

[redacted] Copies are retained at the Philadelphia Office.)

[redacted] were used to (U) characterize the PACEWV. b7D

The letterhead memorandum is classified ~~"Confidential"~~ since data reported by the above sources, if disclosed, could reasonably result in the identification of confidential informants of continuing value and compromise future effectiveness (U) thereof.

[redacted]

The Special Agent who observed [redacted] on 10/23/65 (U) was SA [redacted]

b6
b7C

This case is being placed in a closed status by Philadelphia. Additional activity will be reported when information is received. (U)

421755

FD-323 (Rev. 11-29-61)

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

Philadelphia, Pennsylvania

MAR 2 1966

Title UNIVERSITIES COMMITTEE ON PROBLEMS OF WAR AND PEACE (UCPWP)

Character

Reference Philadelphia memorandum dated and captioned as above.

All sources (except any listed below) whose identities are concealed in referenced communication have furnished reliable information in the past.

421756

[redacted]

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

Philadelphia, Pennsylvania

MAR 2 1966

UNIVERSITIES COMMITTEE ON PROBLEMS OF WAR AND PEACE (UCPWP)

Declassified by 2040 5/21/77 EFG/TLC

Public Hearing On Vietnam,
Philadelphia, Pennsylvania,
October 23, 1965

PH T-1 furnished on October 1, 1965, a copy of the "Community Peace Calendar," for October 1965, issued by the Philadelphia Peace Center, 1520 Race Street, Philadelphia, Pennsylvania, which included the following announcement:

> "Saturday, October 23 -- Congressional Hearings on Vietnam, featuring Congressman ROBERT NIX and others. Place to be determined. Sponsored by the Southeastern Pennsylvania Council, Universities Committee on Problems of War and Peace. For further information contact the Peace Center, LO 4-3180."

The "Daily Pennsylvanian," Philadelphia, Pennsylvania, student newspaper of the University of Pennsylvania, October 13, 1965, reports that the Pennsylvania Council of the UCPWP will hold a day-long public hearing on Vietnam policy Saturday, October 23, at the Bellevue-Stratford Hotel.

Speakers will include TRAN VAN DINH, former Saigon Ambassador to the United States; Professor L. KLEIN, Department of Economics, University of Pennsylvania, and SANFORD GOTTLIEB, Legislative Representative for the Committee for a Sane Nuclear Policy.

Co-Chairman of the Committee is ROBERT RUTMAN, Associate Professor of Chemistry, University of Pennsylvania.

[redacted]

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP(S) OF declass
DATE 6-7-77 TJS/HG

100 190

ENCLOSURE

CONFIDENTIAL

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

ROBERT RUTMAN

PH T-2 advised on May 6, 1952, that Dr. ROBERT J. RUTMAN was a member of the Professional Section of the Communist Party, Eastern Pennsylvania and Delaware (CPEPD).

On August 4, 1953, ROBERT RUTMAN was afforded a hearing before the Loyalty Committee of the Jefferson Medical College of Philadelphia, and he said during the hearing it was his recollection he joined the Communist Party (CP) in the latter half of 1948, at Berkeley, California, but was not a member of the CP at the time of this hearing.

PH T-3 advised on November 16, 1955, that ROBERT RUTMAN was Chairman of the Student Section, CP, of Alameda, California, from April 1949, until mid-1950.

PH T-1 advised on October 19, 1965, that various other "peace" groups, such as Women Strike for Peace (WSP), Women's International League for Peace and Freedom (WILPF), Committee for a Sane Nuclear Policy (SANE), and the American Friends Service Committee (AFSC) have announced the open meeting on Vietnam and have urged their members to attend.

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b7C

PH T-4 advised on October 22, 1965, that at a meeting of Club Organizers of the CPEPD held October 21, 1965, at Philadelphia, Pennsylvania, a CP official urged all CP members present to attend the open hearing on Vietnam on October 23, 1965. [redacted] said that it was possible for someone to speak at the hearing as a Communist. The CPEPD agreed to try to arrange for a Communist speaker to appear at the hearing.

CONFIDENTIAL

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

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A Special Agent of the Federal Bureau of Investigation observed [redacted] on October 23, 1965, at the corner of Broad and Chestnut Streets, Philadelphia, Pennsylvania, passing out leaflets captioned, "Public Hearing on Vietnam." A copy of this leaflet follows.

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UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

PUBLIC HEARING ON VIETNAM

Going on Today: 9:00 A.M. to 5:00 P.M.

BELLEVUE STRATFORD HOTEL - BURGUNDY ROOM
Broad and Walnut Streets

. . . TO DISCUSS AND QUESTION OUR POLICIES IN VIETNAM

HEAR : TRAN VAN DINH; SAIGON DIPLOMAT

TERENCE McCARTY; PROFESSOR OF ECONOMICS

CLERGYMEN

COMMUNITY LEADERS

STUDENTS

EYEWITNESSES

COMMENTATORS: JOHN CLOUGH, TAYLOR GRANT
AND OTHERS WILL INTERVIEW THE WITNESSES

421760

sponsored by: PENNSYLVANIA UNIVERSITY COUNCIL ON PROBLEMS OF WAR AND PEACE

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

[redacted]

PH T-4 advised on October 11, 1965, that [redacted] is a current member of the CP Youth Club, CPEPD. b6 b7C

PH T-5 advised on October 12, 1965, that [redacted] currently attends meetings of the W.E.B. Du Bois Clubs of America (DCA).

A characterization of the DCA appears in the Appendix.

PH T-1 furnished on October 27, 1965, a schedule of speakers and testimony for the open hearing at the Burgundy Room, Bellevue-Stratford Hotel, Saturday, October 2, 9:15 a.m. to 5:00 p.m. A copy of the schedule follows.

Characterizations of the Philadelphia Area Committee to End the War in Vietnam (PACEWV), United Electrical Radio and Machine Workers of America (UE), Sholem Aleichem Club (under the caption, Philadelphia Jewish Cultural Clubs) appear in the Appendix.

C [redacted] E N T I A

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

SCHEDULE OF SPEAKERS AND TESTIMONY - OPEN HEARINGS
Burgundy Room - Bellevue-Stratford Hotel
Saturday, Oct. 23rd, 9:15AM to 5PM

Session I - Chairman: Prof R. Edenbaum, Temple University

9:15 - 9:45 Prof. E. Herman, University of Pennsylvania -"The Issues in Vietnam"

9:45 -11:30 Testimony by Witnesses followed by panel discussions with John Clough (WCAU), Taylor Grant (Channel 29), Aaron Finestone (Temple News), Stephen Klitzman (Daily Pennsylvanian)

Group 1:	Rev. Farinelli - St. Martin's Episcopal Church	(5 min.)	
	R. Millen - Young Americans for Freedom	(10)	
	R. Williams - United Electrical Workers	(5)	
	J. Barrett - SNCC	(5)	
	PANEL DISCUSSION	(15)	
Group 2:	Rev. Jones - Metropolitan African Methodist Episcopal Church/		
	R. Fernandez - Christian Ass'n, U of Pa.	(5)	(5)
	J. Schwartz - Philadelphia Peace Center	(5)	
	PANEL DISCUSSION	(15)	
Group 3:	S. Coxe - American Civil Liberties Union	(10)	
	C. Butterworth - Catholic Worker	(5)	
	J. Aber - Phila. Area Comm. to End War in Vietnam	(5)	
	PANEL DISCUSSION	(15)	

11:30-12:00 Prof. T. McCarty, Industrial Economist, Columbia University
"Economic Aspects of Vietnam War"
PANEL DISCUSSION

Session II - Chairman: Prof. T. Bradley, Swarthmore College

1:15 - 2:15 Eye witness Reports on Vietnam
J. Mirsky - Inter Univ. Comm. for Debate on Foreign Policy
A. Berman - Women's Strike for Peace
A. Stewart - Women's International League
S. Cary - American Friends Service Committee
PANEL DISCUSSION

2:15 - 2:45 Prof. J. Logue - Villanova University
R. Moffit - Young Americans for Freedom

2:45 - 3:30 Tran Van Dinh -former Charge d'affaires, Saigon Embassy, Wash.D.C.
PANEL DISCUSSION

3:30 - 4:00 S. Gottlieb - Committee for SANE Nuclear Policy
D. Hutchinson - Women's International League
Rev. Leiter - Church of the Brethren

4:00 -4:30 N. Bradley - United World Federalists
N. Reece - Americans for Democratic Action
G. Hadley - Students for Democratic Society

4:30 - to close G. Bloomfield - Sholom Aleichein Club
J. Tiner - Dubois Clubs of America

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UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

The following are characterizations of a number of individuals listed in the schedule of speakers:

[redacted] was interviewed on September 25, 1964, by Special Agents of the Federal Bureau of Investigation. He stated he attended a freedom school sponsored jointly by the Student Non-Violent Co-Ordinating Committee (SNCC) and the Council of Federated Organizations (COFO) in Milston, Mississippi, [redacted]

PH T-6 advised on July 1, 1965, that [redacted] was a member of the Student Peace Union at the University of Pennsylvania; has attended meetings of the Young Socialist Alliance (YSA), and is a YSA sympathizer. b6 b7C

A characterization of the YSA appears in the Appendix.

[redacted] Philadelphia, Pennsylvania, was interviewed by Special Agents of the Federal Bureau of Investigation on March 22, 1965, as a reference in a Selective Service Act of 1948 - Conscientious Objector investigation. He stated he was [redacted] of the Peace Center program of Friends Peace Committee, 1520 Race Street, Philadelphia, Pennsylvania. He said he is a conscientious objector and is serving his alternate service with the Friends Peace Committee in lieu of military service.

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

[redacted]

PH T-7 advised on October 17, 1963, that on that date WILLIAM H. HINTON was in contact with [redacted] and HINTON discussed HINTON's efforts at getting his book published. HINTON told [redacted] there is a young man in the Chinese Department at the University of Pennsylvania. His name was [redacted] (phonetic), and he thinks he attended Putney School. HINTON said he met this individual when he, HINTON, gave a talk in New York years ago. The individual lives in a house near HINTON and is now reading his book and likes it and wants to help him get it published.

b6
b7C

WILLIAM HINTON

PH T-8 on March 8, 1965, advised that WILLIAM HINTON had been officially dropped from the 24th Ward, CPEPD.

PH T-4 on April 18, 1965, advised that WILLIAM HINTON had been removed from the District Committee and the District Executive Committee, CPEPD, because of his support to Red China and disagreement with general Party lines on international matters.

[redacted]

PH T-4 advised on October 11, 1965, that [redacted] was a current member of the CPEPD.

PH T-5 advised on October 12, 1965, that [redacted] was the [redacted] of the DCA.

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

[redacted]

On October 7, 1960, PH T-9 advised that during September of 1960, [redacted] contributed $5.00 to the National Committee to Abolish the House Committee on Un-American Activities Committee (NCAHUAC).

A characterization of the NCAHUAC appears in the Appendix.

PH T-6 on September 5, 1963, advised that during August of 1963, [redacted] contributed $10.00 to the Independent Citizens Committee (ICC), Philadelphia, Pennsylvania. b6 b7C

A characterization of the ICC appears in the Appendix.

PH T-10 advised on December 16, 1960, that the name of [redacted] appeared on a leaflet of the Southern Conference Educational Fund, Inc., (SCEF) as one of its sponsors.

A characterization of SCEF appears in the Appendix.

On March 30, 1961, [redacted] was a participant on Radio Station WEAW from Chicago, Illinois, on the topic of Peace Walks. During the discussion, he was accused of being a "Communist Fronter" and admitted being a sponsor of the Committee to Secure Justice for Morton Sobell (CSJMS).

A characterization of the CSJMS appears in the Appendix.

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

PH T-1 on October 27, 1965, advised that he attended the Open Hearing on Vietnam on October 23, 1965, at the Bellevue-Stratford Hotel, Philadelphia, Pa., under the auspices of the UCPWP, and reported in part as follows:

SESSION I

Chairman: Professor R. EDENBAUM, Temple University

The first speaker heard by PH T-1 was FRED ASHELMAN (phonetic), chairman of the Philadelphia Ethical Society, Philadelphia, Pa. He said the United States must work for peace. He did not believe the United States has any business in Vietnam and said the United States must not interfere with the internal affairs of other nations or in their disputes with other nations. He said that such interference should be handled by an international tribunal. He said there should be no unilateral interference, but that the United Nations should take over. He said there should be positive steps taken for peace in Southeast Asia. He said the Ethical Society has petitioned President JOHNSON for a cease-fire in Vietnam and the withdrawal of all foreign troops. There should be cooperative international steps taken to develop the Mekong area.

SPENCER COXE, American Civil Liberties Union (ACLU):

He said the work of the ACLU has not included the field of U. S. foreign policy, but the domestic implications of the present controversy concern the ACLU deeply. He said the protests are undermining the government and form a threat to our rights of free speech and free assembly. He said the revoking of draft deferments could result in repercussions in other areas; however, the ACLU understands that the protests are lawful in most instances and so the ACLU is against any reprisals on the part of the government. The ACLU does not condemn government interference when protests are unlawful in their carrying out, but we deplore unlawful demonstrations being met by unlawful reprisals. He said if it becomes unlawful to criticize the government, we are in danger of becoming governed by masters not by representatives who are doing the will of the people. He further stated that demonstrators are being called fools, beatniks, and communists.

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

The responses to protests have not always been reasoned but are emotional, according to COXE. He stated the ACLU stands for the right of free speech and free assembly and anything that threatens them the ACLU deplores.

R. WILLIAMS (name uncertain), United Electrical Workers:

WILLIAMS stated that although jobs are the first interest of the United Electrical Workers and war seems to make jobs, many labor leaders are taking the view that union members, all working people, are the ones who bear the brunt of war. He stated "we" do most of the fighting and dying, so "we" do not advocate war, especially a war fought under the devious conditions of the war in Vietnam, fighting in jungles and swamps. WILLIAMS went on to say we must be realistic, some wars seem necessary and some not so necessary, so if a war is not necessary, like this war, why take the attitude that our sons must die in a far-off land. He said there is a difference between the wealthy and the not so wealthy. In a war situation, you do not find the sons of wealthy men fighting in the jungle. They have desk jobs or are in the Pentagon or are officers behind the fighting men in safe places. He said it is the working man who does the fighting and dying, while the sons of wealthy employers are getting fat government contracts.

A discussion was held following WILLIAMS' speech in which someone noted that a Gallop poll reflected that 22 percent oppose the war and 58 percent support it. Many people say it is the most unpopular situation in which the government was ever involved. This is the only time the side opposing President JOHNSON and the generals have had their chance to speak, referring to teach-ins and meetings like this one presently being held. SPENCER COXE remarked that the ACLU's national office finds it difficult to make definite statements on the subtle questions involved in the Vietnam situation. COXE said we are faced with phenomena new in America. He said the ACLU is wrestling with the problem of application of the First Amendment. A wave of hysteria is sweeping over the country and has evoked attempts at intimidation, fines and jail sentences.

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UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

J. D. LA MOTHE, Young Americans for Freedom:

LA MOTHE agreed with the right to dissent but disapproved with methods employed to register dissent on the part of peace groups. His organization is for peace but not the peace of communism or of the 26 communist-dominated countried in the world. He said they are captive nations. He said he does not support the actions of those burning draft cards as the Young Americans for Freedom are for law and order. He went on to say that protests must be carried on in legal and peaceful ways, and demonstrations against the government action in Vietnam represent only a small number of people and many of them are a fifth column group who hate American institutions. They are a movement of combined leftist groups. They did not demonstrate when China invaded Tibet and do not demonstrate when Communist North Vietnamese commit aggressions in South Vietnam. (LA MOTHE was ridiculed by TAYLOR GRANT and others.)

CHARLES BUTTERWORTH, Catholic Worker:

BUTTERWORTH said the Catholic Worker is a pacifist movement started in New York by DOROTHY DAY. He made three points as follows:

1. The position on peace is that instead of using force and war to settle differences, the nonviolent method should be used. This method is based on the Sermon on the Mount and on the life of Jesus, who did not resist but held firmly to his statement that he was God; He did not retaliate for injustices but suffered death instead. Gandhi took the same attitude, expanding it into the political realm; Dr. King does the same in the realm of Negro rights seeking to change the hearts of those who do evil. War is not necessary.

2. The position of the Catholic Church on war has been traditionally that there are just wars and unjust wars and that it is permissible to take part in just wars but the attitude of the Church is changing due largely to Pope John 23rd who called the modern weapons nefarious and called the bombing of Hiroshima

human butchery. He said he approved of civil disobedience in the refusal to take part in wars without right reason. He said, therefore, that a young man who was sincere in believing that the war in Vietnam is immoral does right in refusing military service in good conscience. He said Rome is now engaged in drafting a statement on justice and reason as they apply to war.

3. The position on draft age problems of conscience. What should they do? According to BUTTERWORTH, Pope John said the government is pressuring the draftee to do that which is immoral and therefore he is justified in disobedience; he must rely upon conscience because obedience to God is more important than obedience to authority of government. Civil law falls short of reason; the moral law is the true source of authority.

Reverend ARTHUR S. JONES, Metropolitan African Methodist Episcopal Church:

Reverend JONES took the position that the war in Vietnam is immoral because a great strong nation such as ours is fighting against a small, weak, and defenseless country. Besides that the United States is using torture and the most inhuman weapons. Reverend JONES said we Americans pride ourselves on being humane and yet we are giving the world a picture of ourselves as being more inhumane than the primitive people we are fighting against. The methods of warfare being used by the North and South Vietnamese are equally indefensible. The Vietnamese are poor from years of colonial oppression under China, France and Japan, and they do not look forward to years of oppression under American colonial oppression. But the Vietnamese are colored people and so may look forward to our oppression. (There was loud applause, but one man stood up and called attention to the fact that in the Philippines we gave the freed country back to its own government plus good roads, schools and hospitals and we will do the same in Vietnam.)

Reverend NORMAN FARAMELLI, St. Martin's Episcopal Church:

Reverend FARAMELLI stated that the United States has a long history of anti-Communist paranoia. This paranoia is

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growing with the war in Vietnam. All this is warping our moral perspective. The war is corrupting our ideas of right and wrong; our barbaric activities in Vietnam are committed in the name of freedom and all this leads to a weakening of our moral fiber. It also endangers our democratic freedoms. It has come to the point that if we criticize our foreign policies, we are accused of being fools and communists. Do the American people have any say as to our foreign policy? He went on to say the United States refusal to allow free elections in Vietnam forces us to do something to prevent the United States from establishing a colonial empire in Southeast Asia. Since 1945 our policies in Vietnam have cost and are costing the needless loss of countless lives. Our policy of might is right will bring no solution to the problem of Vietnam and will probably plunge us into world war.

JOEL ABER, Philadelphia Area Committee To End The War In Vietnam:

ABER said the anti-draft movement is an historical event. He said we are told we are fighting a just war in Vietnam, and the atrocities committee by Americans and South Vietnamese need not be suppressed as they would be elsewhere because there is no danger in that helpless country that there will be uprisings of the people. He said storms of protest are beginning here all over the country. He related that in addition to all the other atrocities, our military are experimenting with germ warfare, not only against humans but against the rice crop which is the only food staple in that area of the world. Johnson and the Pentagon, in defiance of the Geneva Agreement, are fighting an undeclared war in Vietnam, according to ABER. He stated that at the last election in this country we had no choice, although we did not know it at the time, but we know it now. He said they are building a convention in Washington to present opposition to all the anti-war people, but we have power to build an even stronger anti-war movement.

ABER was asked, how are we committing genocide in Vietnam? He replied by saturation bombing, by starvation, and by destroying the rice fields. He said he knows this because of a list of books he has seen on rice. ABER was then asked, will not this sort of thing make the South Vietnamese willing for victory by the North Vietnamese, and

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he replied, yes. He went on to say if the United States were facing the Russians instead of the Viet Cong, we would not be so sure of victory that we could be so immoral. He said, who are we to decide who is worthy to live and who is not. It is a struggle between two ideologies not two peoples.

Question for CHARLES BUTTERWORTH, Catholic Worker:

Is it possible for a young Catholic to be a conscientious objector on religious grounds? Mr. BUTTERWORTH replied, a Quaker is accepted without question, but not a Catholic, not at present. A Catholic is called in for questioning and the authorities may call a priest who may say this is a just war. The Church is now beginning to implement the Sermon on the Mount, according to BUTTERWORTH, but is still under the medieval tradition. BUTTERWORTH was then asked, are Catholics encouraging young men to plead conscientious objection? He said they encourage young men to make a choice.

Question for Reverend ARTHUR S. JONES, Metropolitan African Methodist Episcopal Church:

Are Negroes encouraging young men to plead for conscientious objector status? Reverend JONES replied that Negroes are more concerned with civil rights than with war, but they are beginning to see the connection between war and the suffering and oppression of Negroes. This war is a war upon colored people by whites. The United States Government is spending three million dollars a day for the war and that is money taken away from aiding the Negro poor in Philadelphia. Most Negroes are not permitted to go to college, and that shows how they are discriminated against here. We are fighting an undeclared and illegal war, and so it is good and proper to resist the draft. The draft itself is immoral. The Catholic group in New York and other peace groups under egis of FOR (Fellowship of Reconciliation) are bringing in more Negroes.

Professor TERENCE MC CARTY, Industrial Economist, Columbia University:

Professor MC CARTY said the "Great Society" and the war in Vietnam are incompatible. We think we are fighting a

war against Communism, but what we are doing is of great advantage to Russia, in fact, we are fighting Russia's war against China. As our manpower dwindles, we shall have to take men out of industry for the army; we will then be faced with wilful encouragement of unemployment as our resources are squandered in the war effort. We think that our resources are limitless, but they are not. Take gold. Russia will soon have the gold monopoly of the world, as this happens, world bankers will turn to Russia instead of the United States as the economic leader, because "power follows gold". According to MC CARTY, we will soon face a manpower shortage that will force the end of draft deferments for college students, and the United States military efforts in Vietnam may lead to a balance of payments deficit that could swing the balance of world economic leadership to the Soviet Union. All this could bring a massive increase in Soviet and Communist power in Europe and elsewhere. This would defeat United States military and diplomatic efforts to contain and defeat Communism around the world. Even if we should win the war in Vietnam, it would mean occupation of the area by the United States. MC CARTY went on to explain some of the economic effects of the Vietnam conflict.

SESSION II

Chairman: Professor THOMPSON BRADLEY, Swarthmore College.

Professor BRADLEY said congressmen and veterans were invited but none came. He said they need to know what the public thinks and wishes.

Eyewitness Reports on Vietnam

JONATHAN MIRSKY, Inter-University Committee for Debate on Foreign Policy:

MIRSKY said he was in the East for a month, one week in Siam. He said he talked to Cambodian and North Vietnamese diplomats, but could not go to North Vietnam as they could not defend him from American bombs. He said he was eight days in Saigon and eight days elsewhere. He said

he told everyone he was taking part in a teach-in. He said his traveling companion spoke Japanese, and they talked to Buddhists, Presbyterians, and Catholics. Most of the Vietnamese have contempt for Americans, according to MIRSKY. They feel their country is being destroyed by the Americans. It is the Americans only who have the means to do this. All, both South and North, are concerned. He said the opinion is unanimous that the United States is not interested in Vietnam or its people; we are fighting a war against China on Vietnam soil. In North Vietnam, according to MIRSKY, there is no evidence that any Chinese are there. In the country there is evidence that the war is actually lost for the Americans.

Mrs. ALINE BERMAN, Women Strike for Peace (WSP):

Mrs. BERMAN said she was one of ten women from the United States who went to North Vietnam to study tragedies that have happened in Vietnam since 1945. She said this war violates the Geneva Conference. She said the people are still fighting for independence and see the United States as merely taking the place of the French; they believe Americans have no business there. She said they had thought of Americans as friendly and kind, but not now. Mrs. BERMAN asked, can't you see what is happening here, 175,000 dead, 8,000 tortured, and 6,000 children dead. The Viet Cong has Communists in it but it is not Communist; it has Buddhists and Catholics also. She said the average American has little understanding of the situation. She said during the moratorium in bombing, bombing went on as usual. She said the Vietnamese want to know why the Americans are there, and they have strong feelings against American imperialism and resent it. She said they have a strong feeling of nationalism and want a coalition government.

Reverend ANNALEE STEWART, Women's International League for Peace and Freedom (WILPF):

Reverend STEWART said she was with an international team of clergymen in Bangkok and Vietnam, sponsored by FOR. She said they were in Saigon on the Fourth of July at the

headquarters of the Voluntary Service from where they could see the flares and hear the gunfire of the United States Army. She said they listened to hear what the Asians had to say, government and embassy people. She said they advised they have had 25 years of war; they lose freedom one time after another and are at the crossroads of conflicting interests. She said what they all want primarily is to be alive and to see the end of the war. She said they do not want to live under Communism, what the peasants want is just to live. She said bombings are on both sides and are tremendous. She said the point of view of the Buddhists is nonpolitical. The war itself is doing what the Communists threatened to do. It is not going to be possible to negotiate a peace unless we are willing to talk.

Following the speech of Reverend STEWART there was a question and answer period, during which she was asked her opinion as to the possibility of a Communist takeover in Vietnam and the lack of discussion of the Vietnam situation in the United Nations.

STEPHEN CARY was called but was not present.

Reverend WILLIAM SCHNEIDER, Rutgers University:

Reverend SCHNEIDER said that he agrees that we should get out of Vietnam as soon as we can, but the Communists forced this war on us and we have to fight Communist power with power. However, he said he did not think we gain anything by increasing the size of our weapons. He related that rather than say he follows government policy, he would say he stands for the use of power against power. He said he wanted now to think it through. He said we offer an American way of life against a Communist way of life and system - a belief in God against Atheism.

Professor JOHN LOGUE, Political Science Professor, Villanova University:

Professor LOGUE related he held a brief for support of American policy in Vietnam. He said assassins and killers are planted in new nations to kill their freedoms. He said

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Vietnam is a complex problem; we must first know what, when and then act. He said we must make a judgment; we must avoid slogans and oversimplifications. He said he questioned his opponent's judgment and said they have converging lines of argument. He related as follows concerning his views:

1. War is hell. He said he agreed with this in general but not of the specific war in Vietnam. He said his opponent says it is essential not to use inhuman weapons, but he says we have not used nuclear weapons. He said his opponent speaks of the inhumanity of tear gas, but look at the guerrilla warfare of the enemy.

2. His opponent says Vietnam is in China's back-yard and ought to be under Communist domination, but he says this argument is false for look at the many times and the 400 years when England took successfully the other view and ended in civilizing the other nation. He said other world powers have done the same thing many times with success. He said our holding on in Vietnam will tend to civilize China.

3. He said the Geneva Conference was broken by both Noth and South Vietnam flagrantly before we came into the picture, so you cannot make us the only sinners. As for elections, elections in Mississippi were fraudulent, so were the elections in Vietnam.

4. His opponent says American action in Vietnam will bring Russia and China together. He believes this is not true.

5. His opponent says containment brought about the war in Vietnam and if we go all will be well. He says if we weaken in Vietnam, the Communists will use Vietnam as a spear-head to extend all over Asia.

6. His opponent says American public opinion is against government policies, and he does not believe it.

7. His opponent says the United States cannot fight a long term war without losing freedom at home. He says then fight a limited war and get a limited response. He says our policy does contain Communism, it strengthens anti-Communists,

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it will bring full political freedom to Vietnam. He said negotiate if you want to, but don't negotiate away a whole people; we must pursue our present course.

ROBERT C. MOFFIT, 18 year old LaSalle Freshman, and a member of the Young Americans for Freedom:

He said he supported Barry Goldwater but now supports Johnson fully in his Vietnam policies. He said some aspects of the situation in Vietnam have been ignored here. He said the North Vietnamese cause has received expert military advice from Russia and China, and Russian bestiality is known and practiced. Infiltration of Communists in North Vietnam began in 1959 and goes on today. Weapons have come into North Vietnam from China, Russia, and other Communist countries, and they have weapons to match our own. He said the only right position we can take is to rally to our President's support. He said so-called intellectual students have made vicious attacks upon our President. He said the courage of American soldiers is ridiculed by so-called moralists. He asked, what about the American soldier's courage under fire and his modesty in victory? He said we do not believe in surrendering to Communism.

TRAN VAN DINH, former Charge d'Affaires, Saigon Embassy, Washington, D. C.:

He said the Vietnam people have been fighting only for unity of the Vietnam people. Vietnam has been ruled by China, France and Japan. He said there is no use for him to be pro or con in "your" controversy about what to do in Vietnam; that is for you to say. He was asked, was the previous government Fascist, and he replied that the previous government was not elected by the people, it was imposed. He related that all he could say is that the Vietnamese want independence, unity, and justice - that is all.

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PH T-11 also attended the Open Hearing on Vietnam on October 23, 1965, and furnished substantially the same information as above. In addition, PH T-11 reported the remarks of the following additional speakers:

SANFORD GOTTLIEB, of the Committee for a Sane Nuclear Policy, said he was in France, Algeria, and Vietnam. He gave his opinion of his contacts in various parts of the world and in Washington, D.C. He said that in February 1965, the United States turned down armistice negotiations, and that BUNDY, RUSK, and GOLDBERG followed the policy of JOHN FOSTER DULLES. He said bombing of North Vietnam makes people more antagonistic toward the United States.

Reverend LEITER, Church of the Brethren at Ocean Grove, New Jersey, said that he believes world opinion has turned against the United States and urged the United States to take the matter before the United Nations.

Reverend MC GUINESS (phonetic), Main Line Unitarian Ministers Association of Delaware Valley, said, "We urge our Government to stop bombing."

NORMAN BRADLEY, United World Federalists, said, "We believe in world peace through world law," and indicated the United States should work solely through the United Nations.

Mr. N. REECE, Americans for Democratic Action, was absent.

Mr. G. HADLEY, Students for a Democratic Society, said President JOHNSON is preventing the people in Vietnam from getting what they want. He said the United States supports a reactionary government and claims that Attorney General KATZENBACH is investigating Students for a Democratic Society (SDS) by hollering, "Red." He wants to stifle controversy.

TED F[illegible]GIN spoke. He said that he voted for President JOHNSON. He then criticized President JOHNSON and said that

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Imperialism is not a policy, but a way of life, and that this must be changed by power. He urged building a movement of independent committees to end the war in Vietnam and urged attendance at the Anti-War Convention, in Washington, D.C.

[redacted]

PH T-6 advised on October 8, 1965, that [redacted] was [redacted] the Philadelphia Young Socialist Alliance (PYSA). b6 b7C

A characterization of the PYSA appears in the Appendix.

PH T-12 advised on October 1, 1965, that [redacted] was a member of the Philadelphia Branch of the Socialist Workers Party (SWP).

A characterization of the Philadelphia Branch of the SWP appears in the Appendix.

JARVIS TYNER, of the W.E.B. Du Bois Clubs of America, spoke. He discussed the policy of anti-Communism and said it was false. He said President JOHNSON is committed to war, and that he inferred he did not know whom he was fighting. He said that the National Liberation Front (NLF) represents the people, all the people (of Vietnam). He said, "We fought in the Dominican Republic because of 55 Communists. We support reactionary regimes." He said this anti-Communist philosophy must be changed.

WILLIAM DAVIDON, of Haverford College and the Society for Social Responsibility in Science, spoke on the evils of war and insisted that the United States get out of Vietnam. By the time he spoke, many people had already left the hearing.

PH T-13 also attended portions of the Open Hearing on Vietnam on October 23, 1965, and furnished substantially the same information on the above concerning the speeches of JONATHAN MIRSKY, ALINE BERMAN, Mrs. ANNA LEE STEWART, TRAN VAN DINH,

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DOROTHY HUTCHINSON, SANFORD GOTTLIEB, NORMAN BRADLEY, TED FAGIN, and JARVIS TYNER. He also reported the remarks of ALAN JEHLAN, a representative of the Students for a Democratic Society from Swarthmore College. JEHLAN said SDS was dedicated to the right of people to have their own leaders, and that Vietnam should have their own leaders. He quoted various people who have said that if there was a free election in Vietnam the National Liberation Front would win. He recommended that the United States withdraw all its troops from Vietnam and help to rebuild some of what we have destroyed. He said it is because South Vietnam has not carried agrarian reforms out that the leaders turned to violence. He thinks that small countries should have their revolutions for their independence without United States interference. He said that the United States is the hostile and powerful force in Vietnam.

PH T-13 commented that he saw a number of people in the audience whom he thought to be connected with the American Civil Liberties Union (ACLU). He said he had noticed these same people in the past in hearings of censorship of pornographic material. He tends to suspect that these people are interested in breaking down the standard values of youth with regard to patriotic support of the Government and with regard to moral behavior and attitudes.

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APPENDIX

CHARACTERIZATIONS OF ORGANIZATIONS

PHILADELPHIA AREA COMMITTEE TO END THE WAR IN VIETNAM (PACEWV)

A source furnished on October 4, 1965, a news release of the Philadelphia Area Committee to End The War in Vietnam (PACEWV) captioned, "International Vietnam War Protest To Have Action in Philadelphia, October 15 and 16," which states in part as follows:

> "The Philadelphia Area Committee To End The War In Vietnam, a local committee having chapters on most area college campuses, as well as many non-college members, will conduct a community talkout on Oct. 15, and a picket on the 16th. The committee is a member group of a nation wide coordinating body having chapters in over forty cities. These committees grew out of the SDS (Students For A Democratic Society), sponsored March on Washington To End The War In Vietnam which drew over 25,000 people to the Nation's Capitol last April 17th."

The source also said that the PACEWV is an affiliate of the National Coordinating Committee To End The War in Vietnam (NCCEWV), with headquarters in Madison, Wisc.

A second source on October 7, 1965, furnished a "Statement of Purpose," of the PACEWV, which stated in part as follows:

"ART. 1. STATEMENT OF PURPOSE

"The Philadelphia Area Committee To End The War In Vietnam is a group of students and other residents

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"of the Philadelphia area, who are opposed to American intervention in Vietnam, the Dominican Republic, and wherever else it may occur. Revolutionary struggles for self-determination are sweeping the world today. American suppression of these movements, we believe, is immoral, and a threat to the peace of the world. The CEWV is organizing teach-ins, direct action projects and other educational projects in public protests to oppose American intervention. We believe that the struggle for self-determination in other continents is related to the struggle for democracy in America--a democracy in which the people have the facts and the power to make decisions for themselves. The struggles in America against racism, poverty and bureaucratic conformity are part of the same movement as the struggle against American militarism. We must build a New America, and join with those peoples in Asia, Africa and Latin America building a New World."

Source noted that Article One above is a duplicate, with minor changes, of the Statement of Purpose of the Berkeley Vietnam Day Committee which originated International Days of Protest, October 15 and 16, 1965.

The same source advised during September and October 1965, that meetings of the PACEWV during these months have been attended by from thirty to seventy people, including representatives of the Young Socialist Alliance (YSA), W.E.B. Du Bois Clubs of America (DCA), Progressive Labor Party (PLP), Students For a Democratic Society (SDS), Socialist Workers Party (SWP), Communist Party (CP), and other "peace" groups.

Characterizations of the YSA, DCA, and PLP are attached.

The SWP has been designated by the Attorney General of the United States pursuant to Executive Order 10450.

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The principal activity of the PACEWV during September and early October 1965, was the organizing of International Days of Protest demonstration, Philadelphia, Pennsylvania, October 15 and 16, 1965. They have conducted subsequent demonstrations at the Institute of Cooperative Research at the University of Pennsylvania, Philadelphia, Pennsylvania, protesting research on biological and chemical warfare.

PACEWV, in October and November, also promoted a March on Washington to End the War in Vietnam, November 27, 1965, sponsored by the Committee for a Sane Nuclear Policy (SANE) and a National Anti-War Convention, Washington, D.C., November 26-28, 1965, sponsored by the NCCEWV.

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The first source advised that officers of the PACEWV elected July 10, 1965, were [redacted] of DCA, and [redacted] of the Philadelphia Chapter of YSA and a member of the Student Peace Union (SPU) at the University of Pennsylvania.

A third source also advised on July 29, 1965, that [redacted] was a member of the CP in Philadelphia.

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UNIVERSITIES COMMITTEE ON PROBLEMS
OF WAR AND PEACE, also known as
UNIVERSITY COMMITTEE ON PROBLEM
OF WAR AND PEACE

The "Daily Pennsylvanian" on September 17, 1965, in an article captioned, "New Campus Committee Formed to Evaluate U.S. Foreign Policy," by ROBERT A. GROSS, stated in part as follows:

"A joint student-faculty organization has been formed to provide continuing comment, criticism, and protest about American foreign policy.

"The group, the University Committee on Problems of War and Peace, has emerged from the temporary committee of professors which organized a widely-attended 'teach-in' on Vietnam last spring.

"Members of the Committee met yesterday to formalize the group and to discuss future plans.

"The formalization of the Committee yesterday parallels the organization of a national Inter-University Committee for Debate on Foreign Policy this summer."

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PHILADELPHIA COUNCIL, NATIONAL COMMITTEE TO ABOLISH THE UN-AMERICAN ACTIVITIES COMMITTEE, aka Philadelphia Council, National Committee to Abolish the House Un-American Activities Committee; Philadelphia Civil Liberties Forum; Philadelphia Council, Abolition Committee

A source advised on April 14, 1961 that the Philadelphia Civil Liberties Forum (PCLF) came into existence on April 1, 1960. The key person in the PCLF is [redacted] Melrose Park, Pa.

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A second source on October 11, 1957 advised that [redacted] at that time a member of the District Education Commission, Communist Party of Eastern Pennsylvania and Delaware, stated that some Party people had formed Study Groups independently, and [redacted] was in such a group.

A third source advised on December 20, 1960 that the Philadelphia Civil Liberties Forum is an ad hoc group with no officers or membership. It was set up in Philadelphia to coordinate activity aimed at abolishment of the House Committee on Un-American Activities (HCUA).

A fourth source advised on April 24, 1961 that a public meeting was held in Philadelphia, Pa. on April 20, 1961, to abolish the House Committee on Un-American Activities. One of the sponsors listed on literature advertising the meeting was the Philadelphia Council of the National Committee to Abolish the Un-American Activities Committee (PC,NCAUAC). Pledge cards were distributed during the meeting, requesting that checks be made payable to the Philadelphia Council, Abolition Committee.

A fifth source on May 25, 1964 advised that the Philadelphia Council, NCAUAC, continues to operate in Philadelphia. Public meetings are held infrequently and are generally built around the appearance in Philadelphia of national officers of the NCAUAC.

The fourth source on May 21, 1964 advised that the PC,NCAUAC, which is also known as the Philadelphia Council, National Committee to Abolish the House Un-American Activities Committee, is inactive and has no regular officers, membership or headquarters. Public meetings are held infrequently and are operated by an ad hoc committee when national officers of the organization appear in Philadelphia.

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PHILADELPHIA SOBELL COMMITTEE

Literature issued by the Committee on the dates indicated reflects the following variations of the names of the Philadelphia Committee which have been utilized:

2/11/52	Philadelphia Committee to Secure Justice in the Rosenberg Case, Post Office Box 805, Philadelphia, Pa.
10/14/53	Philadelphia Committee to Secure Justice in the Rosenberg-Sobell Case, Post Office Box 805, Philadelphia, Pa.
10/19/53	Philadelphia Rosenberg-Sobell Committee, Post Office Box 805, Philadelphia, Pa.
7/8/54	Philadelphia Committee to Secure Justice for Morton Sobell in the Rosenberg Case, Post Office Box 805, Philadelphia, Pa.

On March 14, 1956, a source advised that the Philadelphia Committee to Secure Justice for Morton Sobell in the Rosenberg Case was being disbanded because of a lack of funds and a lack of activity on the part of the Committee.

On April 8, 1958 this source advised that on April 7, 1958 a meeting was held in Philadelphia to re-establish this committee, and the committee would be called the Philadelphia Sobell Committee.

A second source advised on May 10, 1965 that the Philadelphia Sobell Committee continues to operate as a local affiliate of the Committee to Secure Justice for Morton Sobell. It has no officers; however, JEAN FRANTJIS serves as the leader of any activities in Philadelphia. These activities have been limited to the holding of occasional meetings for the purpose of raising funds to help free Morton Sobell from prison.

A third source advised on May 10, 1965 that as of May 10, 1965, JEAN FRANTJIS was a member of the Communist Party, Eastern Pennsylvania and Delaware.

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PHILADELPHIA JEWISH CULTURAL CLUBS

A source on July 10, 1957 advised as follows:

The Philadelphia Jewish Cultural Clubs (PJCC), aka Jewish Cultural [illegible] of Philadelphia, were formed in the spring months of 1954. Actually, the basis for the formation of the PJCC was laid in the fall months of 1953 when it appeared certain that the International Workers Order (IWO) would be dissolved pursuant to an order of liquidation by the New York State courts.

SOL ROTENBERG, former Executive Director, Philadelphia Jewish People's Fraternal Order (JPFO), IWO, in late 1953 laid the groundwork for the formation of the PJCC, using as a nucleus former JPFO, IWO members. In early 1954 he provided leadership in the establishment of the PJCC and also set up the Co-Ordinating Committee, PJCC, composed of delegates from the Culture Clubs of the PJCC. The purpose of this committee was to provide leadership, long-range planning and coordination of the activities of the various culture clubs.

A second source on June 21, 1954 advised that SOL ROTENBERG was a member of the Philadelphia City Committee, Communist Party of Eastern Pennsylvania and Delaware (CPEPD), as of June, 1954. On April 1, 1957, this source advised that as of March, 1957, ROTENBERG was a member of the District Committee, CPEPD.

A third source advised on May 4, 1965 that the PJCC continues to be active in Philadelphia, with the Sholem Aleichem Club being the largest, most active and aggressive in the PJCC with a membership of about 150 people. The following cultural clubs are also active in Philadelphia, but do not have the large membership of the Sholem Aleichem:

Wynnefield Jewish Cultural Club
Uptown Mutual Aid Society
Northeast Culture Club

The International Workers Order and the Jewish People's Fraternal Order have been designated by the Attorney General of the United States pursuant to Executive Order 10450.

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NATIONAL COMMITTEE TO ABOLISH THE HOUSE
UN-AMERICAN ACTIVITIES COMMITTEE

The "Guide to Subversive Organizations and Publications" issued December 1, 1961, by the House Committee on Un-American Activities, page 115, contains the following citation regarding the National Committee to Abolish the Un-American Activities Committee (NCAUAC).

"Cited as a 'new organization' set up in the Summer of 1960 to lead and direct the Communist Party's 'Operation Abolition' campaign. Seven of the national leaders of this group have been identified as Communists."

A source has advised that the NCAUAC changed its name on March 3, 1962, to include the word "House" in its name, thereby becoming known as the National Committee to Abolish the House Un-American Activities Committee (NCAHUAC).

A second source advised on June 28, 1965, that as of that date the NCAHUAC continued to function with headquarters at 555 North Western Avenue, Los Angeles, California.

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SOUTHERN CONFERENCE EDUCATIONAL FUND, INC.

A source advised on October 22, 1958 that earlier in October, 1958, a Philadelphia Committee of the Southern Conference Educational Fund, Inc., (SCEF), was formed with SUSAN FREEMAN chosen to serve as Secretary and the only officer of the Philadelphia group.

A second source reported on October 13, 1961 and May 4, 1962, that the SCEF does not have an organized chapter in Philadelphia, Pa., and it does not maintain an office. It does not maintain a bank account. This source identified LOUISE GILBERT as the Secretary of the Philadelphia Friends of the SCEF. She is assisted by SUSAN FREEMAN. There has been no activity in Philadelphia, Pa., on the part of the Philadelphia Friends, SCEF, since the spring of 1961. The residence of LOUISE GILBERT, 244 South 21st Street, Philadelphia, Pa., is used for correspondence purposes by Philadelphia Friends, SCEF.

A third source advised on March 12, 1954, that SUSAN FREEMAN was a member of the Communist Party of Eastern Pennsylvania and Delaware during the period 1949 to 1950. This source recalls attending at least one closed Communist Party meeting conducted at FREEMAN's residence in late 1949 or early 1950.

A fourth source revealed on August 27, 1954, that in August, 1954, he knew LOUISE GILBERT as a member of the Communist Party in Louisville, Ky.

The Communist Party, USA, its affiliates and subdivisions, have been designated by the Attorney General of the United States pursuant to Executive Order 10450.

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YOUNG SOCIALIST ALLIANCE

The May, 1960, issue of the "Young Socialist" ("YS"), page 1, column 3, disclosed that during April 15-17, 1960, a national organization entitled, "Young Socialist Alliance" (YSA) was established at Philadelphia, Pennsylvania. This issue stated this organization was formed by the nation-wide supporter clubs of the publication "YS."

The above issue, page 6, set forth the Founding Declaration of YSA. This declaration stated YSA recognizes the Socialist Workers Party (SWP) as the only existing political leadership on class struggle principles, and that the supporters of the "YS" have come into basic political solidarity with the SWP on the principles of revolutionary socialism.

A source advised on May 7, 1965, that the original YSA was an organization formed during October, 1957, in New York City, by youth of various left-socialist tendencies particularly members and followers of the SWP. The leaders of this group were the guiding forces in the establishment of the national organization.

The source further advised on May 7, 1965, YSA is dominated and controlled on a national basis by the SWP through having SWP members comprise exclusively the National Executive Committee (NEC) and through an official SWP representative at all YSA NEC meetings. The YSA, in reality, is the youth and training section of the SWP and the main source of new SWP members.

The headquarters of the YSA is located in Room 631, 41 Union Square West, New York City.

The SWP has been designated pursuant to Executive Order 10450.

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PHILADELPHIA YOUNG SOCIALIST ALLIANCE

On June 2[illegible], 1963 a source advised that youth of the Socialist Workers Party (SWP), the Communist Party (CP), and other socialist-type organizations formed a new youth organization in November, 1957 known as the Young Socialist Club of Philadelphia (YSCP). By 1960 the SWP had obtained complete control of this organization; the youth from the other organizations had dropped out; and its name was changed to the Philadelphia Young Socialist Alliance (PYSA).

On April 28, 1965 a second source advised the PYSA is dominated and controlled in its leadership and ranks by members of the Philadelphia Branch, Socialist Workers Party (PBSWP). It has no permanent headquarters, but utilizes the residences of various members for meetings, functions and mailing addresses.

The SWP and the CP have been designated by the Attorney General of the United States pursuant to Executive Order 10450.

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PHILADELPHIA BRANCH, SOCIALIST WORKERS PARTY

A source advised on April 28, 1965 that the Philadelphia Branch of the Socialist Workers Party (PBSWP) is an affiliate of the National SWP, which maintains headquarters at 116 University Place, New York, N. Y., and, as such, follows the aims and purposes of the National SWP. The source advised that the PBSWP which has been an active organization in Philadelphia since 1940, does not have a headquarters at the present time, but utilizes residences of various members for meetings and functions. The source added that the PBSWP utilizes the name "Militant Labor Forum" for public affairs and "Workers Party" as a ballot name when running candidates for public office.

The SWP has been designated by the Attorney General of the United States pursuant to Executive Order 10450.

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PROBLEMS OF WAR AND PEACE (UCPWP)

INDEPENDENT CITIZENS COMMITTEE (ICC)

A source advised the Independent Citizens Committee (ICC) was initiated and formed by the Communist Party, Eastern Pennsylvania and Delaware (CPEPD), in October, 1962 to build a left-center organization which would be able to initiate political activity. As of May 4, 1964, the policies of the ICC were dominated by the CPEPD through Communist Party members who were officers and members of the ICC.

On May 21, 1965 this same source advised the ICC continues to operate under the domination of the CPEPD.

421791

CONFIDENTIAL

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UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

EMERGENCY CIVIL LIBERTIES COMMITTEE

The "Guide to Subversive Organizations and Publications", revised and published as of December 1, 1961, by the Committee on Un-American Activities, U. S. House of Representatives, documents the Emergency Civil Liberties Committee as follows:

"To defend the cases of Communist lawbreakers, fronts have been devised making special appeals in behalf of civil liberties and reaching out far beyond the confines of the Communist Party itself. Among these organizations are the * * * Emergency Civil Liberties Committee. When the Communist Party itself is under fire, these fronts offer a bulwark of protection."

(Internal Security Subcommittee of the Senate
Judiciary Committee, Handbook for Americans,
S. Doc. 117, April 23, 1956, p. 91)

A source advised December 21, 1957 and January 6, 1958 that LEONARD BOUDIN, constitutional lawyer and legal counsel for Emergency Civil Liberties Committee, made a speech December 20, 1957, accepting the Philadelphia Associates as a group to work with the national organization. This occurred at a Bill of Rights Day celebration sponsored by the Philadelphia Associates, Emergency Civil Liberties Committee, at the Adelphia Hotel, Philadelphia.

A second source advised on May 23, 1962, that the Philadelphia Associates have not been active in the past two years, have no current active membership and do not maintain a headquarters in Philadelphia.

421792

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UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL

"Following the execution of atomic spies Ethel and Julius Rosenberg, in June, 1953, the 'Communist campaign assumed a different emphasis. Its major effort centered upon Morton Sobell, the Rosenbergs' codefendant. The National Committee to Secure Justice in the Rosenberg Case - a Communist front which had been conducting the campaign in the United States - was reconstituted as the National Rosenberg - Sobell Committee at a conference in Chicago in October, 1953, and then the National Committee to Secure Justice for Morton Sobell in the Rosenberg Case'...

("Guide to Subversive Control Organizations and Publications," dated December 1, 1961, issued by the House Committee on Un-American Activities, page 116.)

In September, 1954, the name "National Committee to Secure Justice for Morton Sobell" appeared on literature issued by the Committee. In March, 1955, the current name, "Committee to Secure Justice for Morton Sobell" first appeared on literature issued by the Committee.

The Address Telephone Directory for the Borough of Manhattan, New York City, as published by the New York Telephone Company on April 6, 1965, lists the Committee to Secure Justice for Morton Sobell as being located at 150 Fifth Avenue, New York, New York.

421793

CONFIDENTIAL

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CONFIDENTIAL

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

W. E. B. DU BOIS CLUBS OF AMERICA (DCA)

A source has advised that on October 26-27, 1963, a conference of members of the Communist Party (CP), including national functionaries, met in Chicago, Illinois, for the purpose of setting in motion forces for the establishment of a new national Marxist-oriented youth organization which would hunt for the most peaceful transition to socialism. The delegates to this meeting were cautioned against the germ of anti-Soviet and anti-CP ideologies. These delegates were also told that it would be reasonable to assume that the young socialists attracted into this new organization would eventually pass into the CP itself.

A second conference of over 20 persons met in Chicago on December 28-29, 1963, for the purpose of initiating a "call" to the new youth organization and planning for a founding convention to be held in June, 1964.

A second source has advised that the founding convention for the new youth organization was held from June 19-21, 1964, at 150 Golden Gate Avenue, San Francisco, California, at which time the name W. E. B. DuBois Clubs of America (DCA) was adopted. Approximately 500 delegates from throughout the United States attended this convention. The aims of this organization, as set forth in the preamble to the constitution, are, "It is our belief that this nation can best solve its problems in an atmosphere of peaceful coexistence, complete disarmament and true freedom for all peoples of the world, and that these solutions will be reached mainly through the united efforts of all democratic elements in our country, composed essentially of the working people allied in the unity of Negroes and other minorities with whites. We further fully recognize that the greatest threat to American democracy comes from the racist and right wing forces in coalition with the most reactionary sections of the economic power structure, using the tool of anti-Communism to divide and destroy the unified struggle of the working people. As young people in the forces struggling for democracy, we shall actively strive to defeat these reactionary and neo-fascist elements and to achieve complete freedom and democracy for all Americans, thus enabling each individual to freely choose and build the society he would wish to live in. Through these struggles we feel the American people will realize the viability of the socialist alternative."

The constitution further states that this new organization shall be a membership organization open to individuals, or if five or more people so desire, a chapter can be formed which shall in turn be guided by the policies and principles of the parent organization.

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CONFIDENTIAL

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

As of October, 1965, the headquarters of the DCA was located at 954 McAllister Street, San Francisco, California.

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b7C

Over the Labor Day weekend, 1965, the DCA held a conference in Chicago, Illinois. According to a third source, a new slate of national officers was elected at this conference, which included [redacted] (who, according to the third source, attended a CP cadre encampment held at Camp Midvale, New Jersey, in June, 1965, and following his election [redacted] of the DCA, attended another national CP cadre youth conference held on September 9-12, 1965, on a farm located in Northern Indiana, according to a fourth source); [redacted] (who was elected to the San Francisco County Committee CP in April, 1964, according to a fifth source); [redacted] (who in June, 1964, was stated to be [redacted] the Northern California CP District Board, according to a sixth source); [redacted] (who, according to a seventh source, met in June, 1965, with the District Staff of the Illinois CP to discuss the proposed DCA Midwest Summer Project), and [redacted] (who, according to an eighth source, has attended meetings of the Youth Club of the CP of Illinois during 1965 in connection with the DCA Summer Project).

421795

CONFIDENTIAL

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA

The "UE Shop Steward Guide," United Electrical, Radio and Machine Workers of America (UE) Publication No. 212, Sixth Edition, 1952, discloses on Pages 32-34, "UE - the United Electrical, Radio and Machine Workers of America" was established in 1936 at a convention in Buffalo, New York. At that time the organization was called the United Electrical and Radio Workers of America. Shortly thereafter, a large group of American Federation of Labor machinists' locals joined the UE and the full name became the United Electrical, Radio and Machine Workers of America (UE).

The UE is known as an "International Union" because companies of both the United States and Canada are under contract.

"100 Things You Should Know About Communism and Labor," prepared and released by the Committee on Un-American Activities, U.S. House of Representatives, Wash., D.C., 1951, discloses the following information: In 1944, the Committee on Un-American Activities found the "United Electrical, Radio and Machine Workers of America (CIO)" to be one of the unions which was described as having "Communist leadership..., strongly entrenched." The "United Electrical, Radio and Machine Workers of America" was listed as one of the unions which was expelled from the Congress of Industrial Organizations in 1950 because of its Communist domination.

The "Internal Security Annual Report for 1957, Report of the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws of the Committee on the Judiciary, United States Senate," on Page 61, refers to UE as "one of the strongest Communist-controlled unions in America."

The International headquarters of UE is located at 11 East 51st Street, New York, N.Y., according to the April 19, 1965, edition of "UE News," official organ of UE.

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CONFIDENTIAL

UNIVERSITIES COMMITTEE ON
PROBLEMS OF WAR AND PEACE (UCPWP)

PROGRESSIVE LABOR PARTY (PLP)
PROGRESSIVE LABOR MOVEMENT (PLM)

A source advised on April 20, 1965 that the PLP, formerly known as the PLM, held its first national convention April 15-18, 1965 at New York City, to organize the PLM into a PLP. The PLP will have as its ultimate objective the establishment of a militant working class movement based on Marxism-Leninism.

"The New York Times", City Edition, Tuesday, April 20, 1965, page 27, reported that a new party of "revolutionary socialism" was formally founded on April 18, 1965, under the name of the PLP. The PLP was described as an outgrowth of the PLM. Its officers were identified as Milton Rosen, New York, President, and William Epton of New York and Mort Scheer of San Francisco, Vice Presidents. A 20-member National Committee was elected to direct the party until the next convention.

According to the article, "The Progressive Labor Movement was founded in 1962 by Mr. Rosen and Mr. Scheer after they were expelled from the Communist Party of the United States for assertedly following the Chinese Communist line."

The PLP publishes the "Marxist-Leninist Quarterly", a theoretical magazine; "Progressive Labor," a monthly magazine; "Challenge", a New York City newspaper; and "Spark", a west coast newspaper.

The June 1, 1965 issue of "Challenge" page 6, states that, "this paper is dedicated to fight for a new way of life - where the working men and women own and control their homes, factories, the police, courts, and the entire government on every level."

The source advised that the PLP utilizes the address of General Post Office Box 808, Brooklyn 1, New York, but also utilizes an office in Room 622, 132 Nassau Street, New York City, where PLP publications are prepared.

CONFIDENTIAL

421797

March 15, 1966

Police Review Issue Finds Mayor's Office

By Woodson Howe

Simmering for months inside and outside city government, a debate over civilian review of the Omaha Police Department has reached the Mayor's office.

Mayor Sorensen will meet Wednesday with Norman L. Hahn, chairman of the Human Relations Board, and Homer C. Floyd, the Mayor's Human Relations Co-ordinator, about handling racial complaints.

The meeting is described as a discussion of complaints against any city employe, but Mr. Hahn said the problem centers on allegations of police abuse—physical or verbal.

"Police brutality is not the right phrase," Mr. Hahn said Monday. "A policeman can be just as brutal by subjecting a Negro to degradation with words."

Fellow Officers

At issue is whether members of the Police Department should be assigned to investigate charges by citizens against fellow officers.

Some civil rights groups have been calling for the creation of a civilian review board, Mr. Hahn said.

"I don't like the idea of a civilian review board as such," he said, "but I think the Human Relations Board can serve that purpose."

Mr. Hahn said the board wants the Mayor to set a policy of channeling racial complaints against city employes through the board and Mr. Floyd.

Raises Questions

Having the police investigate those charges, the chairman said, raises questions about the impartiality of the findings.

Mayor Sorensen also spelled out his position Monday, saying:

"Any time we get a complaint, the Police Department makes an investigation. This is not going to change. If the Human Relations Board is not satisfied, it can make further inquiry."

'Unduly Alarmed'

As to the argument that civilians ought to review police investigations, the Mayor said City Hall officials at the highest level "spend hours and hours" studying each complaint.

While praising the Human Relations Board for "doing a good job" and "gaining in stature," Mr. Sorensen said its members "in some cases get unduly alarmed."

Public Safety Director Francis E. Lynch, who has not been invited to the Wednesday session, said in a separate interview that he, the police chief and "the staff that we assign" will continue to look into racial complaints.

Mr. Lynch said the grievances get "preferred attention" by officers with the rank of captain or above.

"They are factual and in my opinion impartial," he said.

"You've got a civilian review—me," the director added.

Mr. Lynch said the police arrest one thousand persons each month. When a person is deprived of his freedom by an arrest, there is a "conflict situation," he said.

Three Complaints

"And yet only three complaints involving Negro citizens have crossed my desk," he said, pointing out that one resulted in a verbal reprimand for the officer involved, another led indirectly to a five-day suspension and the third is still pending.

Mr. Lynch produced 60 letters from citizens praising police courtesy. He said they were unsolicited.

Mr. Hahn said it was not a question of whether the investigations have been factual.

"I don't think Lynch or (Chief L. K.) Smith are brushing off or hiding anything," Mr. Hahn said, "but I think they have failed to realize how symbolic these things become.

"There are elements in the Negro community who distrust what they call the power structure, including the Mayor, Lynch and Smith, and they feel these investigations are not impartial," the chairman said.

'Out of Proportion'

If investigated by an agency independent of the Police Department, these incidents would not be "blown out of proportion" by some Negroes, Mr. Hahn said.

Informed of this comment, Mr. Lynch said:

"Anybody with a complaint can come to the Mayor, me or the Chief of Police. If they are not satisfied, they can go to the FBI or the Human Relations Board."

61-190-1194

421800

ACLU Seeks New Chapter

Nebraskans Organize, Elect 15 Directors

The American Civil Liberties Union thinks democracy needs a watchdog. A group of Nebraskans who agree hope to form a state chapter of the national organization.

The Rev. V. L. Vanstrom, pastor of the First Unitarian Church and a former practicing attorney, said some persons are deprived due process of law "in spite of our Constitution, the Bill of Rights and our court system."

"In some cases, persons know their rights are being violated and apply for help to the Civil Liberties Union," the Rev. Mr. Vanstrom said. "But others don't know. It's up to the ACLU to help them, too."

There are 38 league chapters in the United States. This week Gordon Haskell, national membership and development director from New York City, was on hand to stir up local interest.

Mr. Haskell said his group does not always shoulder "popular" causes. "Sometimes we've defended Communist leaders, Nazis and members of the Ku Klux Klan—not because we believed in their philosophy but because we thought they were being denied their rights."

Nebraskans working for the formation of a state chapter have submitted by-laws to the national organization, Mr Haskell said. "We should know by May whether the local group has been approved."

A board of 15 state directors has been elected. Six are from Omaha and six from Lincoln.

Omaha board members are Earl M. Curry, assistant professor of business administration at Omaha University; the Rev. Wendell Langley, S.J., Creighton University; Mrs. Alexander McKie, Jr.; attorney Robert Oberbillig; Cecil T. Young, employe of Northwestern Bell Telephone Company, and the Rev. Mr. Vanstrom.

Haskell, left, Vanstrom . . . not always popular.

March 12-1966
How about this group also?

61-190-1144

421801

REC-1

61-190-1145

April 6, 1966

EX-115

[redacted]

Salt Lake City, Utah 84109

b6
b7C

Dear Mr. [redacted]

Your letter of March 31st has been received.

In response to your inquiry, information contained in our files must be maintained as confidential in accordance with regulations of the Department of Justice. I am sure you will understand the reason for this policy and why I am unable to furnish the data you requested.

Sincerely yours,

J. Edgar Hoover

NOTE: Bufiles contain no record of correspondent. The American Civil Liberties Union is well-known to the Bureau.
JRP:acp
(3)

MAILED 27
APR 6 1966
COMM-FBI

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

MAIL ROOM [redacted] TELETYPE UNIT [redacted]

54 APR 20 1966

TRUE COPY

[redacted]
Salt Lake City Utah
March 31, 1966

Federal Bureau of Investigation
Washington D. C.

b6
b7C

Dear sir:

The American Civil Liberties Union is quite active in this locality and as a result has become quite controversial. Some say it is a communist front group while others say not. I know it has connections with known communists as has been reported at times in the news. Could you give me some information on this group as to whether it is a front organization.

Yours truly

/s/ [redacted]

ITC 4/5/66 cap
mne
ack JRP/cap 4/6/66

REC-7 61-190-1145

EX-113

12 APR 12 1966

8 16

[redacted] City Clerk 64109

March 31, 1966

62-570

Federal Bureau of Investigation
Washington D.C.

Dear sir:

The american Civil Liberties Union is quit
active in this locality and as a result has
become quite controversial. Some say it is a
communist front group while others say not.
I know it has connections with known communis
as has been reported at times in the news. Could yo
give me some information on this group as
whether it is a front organization.

b6
b7C

Yours truly

[redacted]

ITC
4/5/66 acp
none
act
JRP/acp 4/6/66

CORRESPONDENCE

April 25, 1966

REC- 82 61- 190-11416

[redacted]

STUDENT AT CALIFORNIA STATE COLLEGE LONG BEACH, CALIF

Laguna Beach, California 92651

Dear Mr. [redacted]

b6
b7C

Your letter of April 17th has been received.

In response to your inquiry, information contained in our files must be maintained as confidential in accordance with regulations of the Department of Justice. I am sure you will understand the reason for this policy and why I am unable to furnish the data you requested.

Sincerely yours,

J. Edgar Hoover

APR 25 3 06 PM 196
FBI

NOTE: Bufiles contain no record of correspondent. The American Civil Liberties Union is well-known to the Bureau.

JRP:pal (3)

MAILED 3
APR 25 1966
COMM-FBI

51 MAY 11 1966

Tolson
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Gandy

MAIL ROOM ☐ TELETYPE UNIT ☐

WILLIAMS-4721

TRUE COPY

4-17-66

Mr. J. Edgar Hoover
Federal Bureau of Investigation
9th St. & Pennsylvannia Ave. NW
Washington, D. C. 20535

Dear Mr. Hoover,

I am a student at California State College at Long Beach and I am making a study of the American Civil Liberties Union (ACLU). Have you conducted any investigations of the ACLU? If so, would it be possible to send me a copy of such an investigation or any information concerning the ACLU?

Sincerely,

/s/ [redacted]

b6
b7C

1-TC
4-22-66

REC-82 61-190-1146

APR 28 1966

[redacted]
Laguna Beach, California
92651

4/25/66

4-17-66

Mr. J. Edgar Hoover
Federal Bureau of Investigation
9th St. & Pennsylvania Ave. NW
Washington, D.C. 20535

Dear Mr. Hoover,

I am a student at California State College at Long Beach and I am making a study of the American Civil Liberties Union (ACLU). Have you conducted any investigations of the ACLU? If so, would it be possible to send me a copy of such an investigation or any information concerning the ACLU?

[redacted]

b6
b7C

1-TC
4-22-66

[redacted]
Laguna Beach, California
92651

CORRESPONDENCE

Ack
JRP:pal
4/25/66

May 4, 1966

REC. 19 61-190-1149

[redacted]

Seattle, Washington 98115

b6
b7C

Dear Mr. [redacted]

Your letter of April 29th has been received.

In response to your inquiry, information contained in our files must be maintained as confidential in accordance with regulations of the Department of Justice. I am sure you will understand the reason for this policy and why I am unable to furnish the data you requested.

Sincerely yours,

J. Edgar Hoover

NOTE: Bufiles contain no information identifiable with correspondent. The American Civil Liberties Union is well-known to the Bureau.

HRH:tlc
(4)

MAILED 19
MAY 4 1966
COMM-FBI

MAY 14 1966

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Seattle, Washington
[redacted]

April 29, 1966

b6
b7C

Federal Bureau of Investigation

Washington, D.C.

Gentlemen:

Would you be kind enough to advise me if the name of the American Civil Liberties Union does now or ever has appeared on your or any other list of subversive or Communist front organizations?

Thank you.

Very truly yours,

[redacted]

REC- 19 61-190-1147

crf/jl

3 MAY 5 1966

CORRESPONDENCE

rdt 11:45 PM
5-13-66 JDW

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

MAY 13 1966

TELETYPE

Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Wick
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

FBI WASH DC

FBI ATLANTA

827PM EST URGENT 5-13-66 JDW

TO DIRECTOR

FROM ATLANTA /44-NEW/

ALLEGATIONS AGAINST ATLANTA PD BY AMERICAN CIVIL LIBERTIES UNION, CIVIL RIGHTS MATTERS.

b6
b7C

[redacted] REPORTER, ATLANTA CONSTITUTION, MADE AVAILABLE THIS DATE FIFTYSIX PAGE REPORT PREPARED BY AMERICAN CIVIL LIBERTIES UNION. REPORT TO BE RELEASED PUBLICLY MAY SIXTEEN NEXT. REPORT REVIEWED BY ATLANTA OFFICE AND NO MENTION MADE ABOUT FBI. NUMEROUS ALLEGATIONS MADE, SOME OF THEM ACCUSING ATLANTA PD OF BRUTALITY. IN ONE CASE MENTIONED, A PRELIMINARY INVESTIGATION CONDUCTED BY ATLANTA DIVISION.

ATLANTA MAKING COPIES OF THIS REPORT AND WILL SUBMIT TWO COPIES OF REPORT AND COVER LETTERHEAD FOR DISSEMINATION TO THE DEPARTMENT. A COPY WILL ALSO BE DISSEMINATED TO USA, ATLANTA. ON THE COVER COMMUNICATION THE ATLANTA OFFICE WILL IDENTIFY CASES ALREADY HANDLED BY ATLANTA AND WILL ALSO MAKE ANY RECOMMENDATIONS THAT ARE APPROPRIATE.

END AND ACK PLS

AM LLD

FBI WASH DC

CLR MAY 27 1966

MAY 16 1966 FBI

61-190-1148

REC 7

EX-112

10 MAY 16 1966

cc Hines

UNRECORDED COPY FILED IN 62-

7354

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. Wick

DATE: 5-13-66

FROM : M. A. Jones

SUBJECT: AMERICAN CIVIL LIBERTIES UNION
45TH ANNUAL REPORT

SYNOPSIS:

Bureau in receipt of an American Civil Liberties Union (ACLU) 45th Annual Report and accompanying news release. Report recapitulates ACLU civil rights activities and those of other individuals and organizations for period 7-1-64 to 6-30-65. Four references to FBI appear in Report, two of which criticize our civil rights investigations as not "...inspiring" and in need of improvement. Two other references to the FBI are incidental and not critical. Balance of Report catalogues every conceivable phase of ACLU civil rights activities. ACLU opposition to or support of programs, policies or laws affecting any area of civil rights is set forth in details under appropriate headings.

RECOMMENDATION:

None. For information.

1 - Mr. Tolson
1 - Mr. DeLoach
1 - Mr. Wick
1 - Mr. Sullivan
1 - Mr. Rosen

JHC:jah/jma (6)

REC-D MICH TJB
61-190-11149

CONTINUED - OVER

14 MAY 17 1966

57 MAY 20 1966

421739

M. A. Jones to Wick Memo
RE: AMERICAN CIVIL LIBERTIES UNION

DETAILS

The American Civil Liberties Union (ACLU) has forwarded a copy of its 45th Annual Report to the Bureau along with their accompanying newsrelease for 5-2-66.

The Annual Report is a recapitulation of ACLU activities but also includes those of other individuals and organizations for the period 7-1-64 to 6-30-65. The FBI is mentioned in four places in this report.

REFERENCES TO FBI:

The first reference to the FBI appears on page 71 under the heading "Police Review Boards." Noting that "public demands for a police review board in Newark, New Jersey," had prompted the mayor to announce a plan under which all cases of alleged police brutality would be referred for FBI investigation, the report stated that the N.J. ACLU had attacked this proposal, inferring (incorrectly) that this was not within FBI jurisdiction. "Besides," said the affiliate, "the FBI's record in civil rights cases has not been inspiring."

The second reference to the FBI appears on page 90 under the heading "State and Local Developments." The report noted that in a letter to the U. S. Attorney General the ACLU called for immediate action to improve the FBI's investigation of civil rights complaints and its enforcement of civil rights laws. "Since the list of violations are huge and proportionately arrests and prosecutions are few, we do not think our criticism is unjustified," continued the report quoting from this letter. "Recognizing the basic stumbling bloc as the close working relationship between the FBI and local police officers," said the report, "the ACLU made two specific recommendations: (1) the Attorney General should issue explicit instruction making it clear that the FBI considers the investigation of civil rights complaints its first order of business and (2) amend present federal civil rights law to make clearer the grounds on which local law enforcement officials can be arrested and convicted for depriving persons of their civil rights."

421741

DETAILS CONTINUED - OVER

The above evidently refers to a letter dated 11-30-64 to the Attorney General from John de J. Pemberton, Jr., ACLU Executive Director; a copy of which was subsequently furnished by Pemberton's letter to the Director, 12-16-64, explaining that it had not originally been sent "through an inadvertence." (61-190-1092) The Department rebutted this criticism by return letter.

The third reference to the FBI is incidental and appears on page 92 of the report under the heading "Demonstrations." It refers to "FBI material" in a discussion recommending the release of more information concerning the progress of civil rights investigations.

The fourth reference appears on page 107 as "Smith v. Penn--Right to FBI Reports," in an itemization of ACLU case costs.

GENERAL SUMMARY:

The remainder of the ACLU report catalogues their activities in every conceivable phase of civil rights. Among these that could affect Bureau interests are the following:

Freedom of Belief, Expression and Association

ACLU OPPOSITION TO: "Federal screening by the Post Office of 'communist political propoganda' "; the Supreme Court's Roth doctrine as a "vague and unworkable" obscenity criteria; pre-censorship of motion picture films; unwarranted government secrecy in withholding records from the press; loyalty oaths in all forms; "government's right to define...religious beliefs that qualify" Selective Service conscientious objectors; restrictions on a citizen's right to travel anywhere outside the U. S.; inquiry of job applicants as to any prior arrests; continued existence of the House Committee on Un-American Activities; registration of communist front and communist action organizations with the Subversive Activities Control Board; and the non-communist affidavit provisions of the Taft-Hartley law.

421742

DETAILS CONTINUED - OVER

ACLU SUPPORT OF: "the widest scope of criticism and free discussion of public affairs," particularly with regard to Vietnam policy; criticism of public officials and the protection of such criticism outside the scope of normal libel laws; student rights to on-campus political expression; the Supreme Court's "one-man, one-vote" reapportionment decision; the right of public assembly by all groups regardless of political philosophy; equal job rights for all regardless of political belief and association; and equal Federal employment opportunities for homosexuals.

Due Process of Law

ACLU OPPOSITION TO: wire tapping; treatment of alcoholism as a crime rather than an illness as reflected by the numerous arrests on that charge; state "stop and frisk" laws based on mere suspicion; felon registration ordinances; review of prison inmate mail that may violate their attorney-client relationship; capital punishment; TV coverage of criminal trials; and disclosures to the press of prior criminal information concerning an arrested person.

ACLU SUPPORT OF: an open immigration policy for all regardless of national origin; state observance of Federal criminal procedures; civilian police review boards; assignment of legal counsel for indigents before preliminary hearings; the right of the accused to confront witnesses against him; and bail reforms.

Equality Before the Law

ACLU OPPOSITION TO: the poll tax and other discriminatory voting laws and the slow progress of school desegregation in the South and "de facto" school segregation in the North.

ACLU SUPPORT OF: racial equality in the selection of jurors; the theory that the Watts riot was a sign of social unrest among the underprivileged who were provoked by the unnecessary use of force by white policemen making an arrest; and racial discrimination in housing which is financed by any Federally aided, chartered, regulated, or insured lending institution.

421743

WTB

FD-36 (Rev. 5-22-64)

FBI

Date: 5/16/66

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL AIRMAIL
(Priority)

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 10/29/92 BY 1648 DKM/gw

TO # 291745 : DIRECTOR, FBI

FROM : SAC, ATLANTA (44-2102) (C)

SUBJECT : ALLEGATIONS AGAINST ATLANTA PD
BY AMERICAN CIVIL LIBERTIES UNION
CIVIL RIGHTS MATTERS

Re Atlanta teletype to the Bureau 5/13/66.

Enclosed for the Bureau are five copies of a Letterhead Memorandum, suitable for dissemination. As an enclosure to this Letterhead Memorandum are two copies of an ACLU report referred to in referenced teletype.

For the Bureau's information on page 15 of the ACLU report there is information concerning [redacted] The Bureau is referred to the report of SA [redacted] at Atlanta dated 3/16/66, captioned [redacted] ATLANTA, GA. POLICE OFFICERS; [redacted] - VICTIM, CR, BUFILE 44-32219, AT FILE 44-2055. b6 b7C

On page 13, there is information concerning MRS. NANNIE WASHBURN. Bureau refer to Atlanta airtel to the Bureau dated 3/29/66, captioned INTERNATIONAL DAYS OF PROTEST, 3/25-26/66, IS - C, Bufile 100-445310, AT FILE 100-6903. On page 2 of Letterhead Memorandum,

ENCLOSURE

(3) - Bureau (Encs. 5)
2 - Atlanta
CSH:mel
(5)

"ENCL BEHIND FILE"

REC-26 61-190-1150
Agency CRD
Date Forw. MAY 18 1966
How Forw 6-94
By

1 cc CIVIL RIGHTS UNIT
MAY 17 1966

Approved: _____ Sent 421736 M Per _____
Special Agent in Charge

JUN 13 1966

MAY 23 1966

ENCLOSURE AND COPY OF ENCL FILED IN CRD

FD-36 (Rev. 5-22-64)

FBI

Date:

Transmit the following in _____
(Type in plaintext or code)

Via _____
(Priority)

AT 44-2102

information is contained concerning the arrest of NANNIE LEAH WASHBURN, and on page 4 of Letterhead Memorandum is a documentation of NANNIE LEAH WASHBURN.

A check of Atlanta indices does not indicate that investigations have been handled concerning the other cases mentioned in ACLU report.

This report was released 5/16/66, and has received considerable publicity in the Atlanta press.

Due to the controversial nature of the report, Atlanta is not recommending any investigation of incidents referred to therein, but is submitting it to the Bureau for transmittal to the Department for information.

A copy of this Letterhead Memorandum and report ~~are~~ being submitted to the USA in Atlanta, and no further action is being taken UACB.

421738

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

Atlanta, Georgia
May 16, 1966

ALLEGATIONS AGAINST ATLANTA POLICE DEPARTMENT BY AMERICAN CIVIL LIBERTIES UNION

[redacted], Reporter, The Atlanta Constitution, made available on May 13, 1966, a report put out by the American Civil Liberties Union entitled Police Procedures in Atlanta, an ACLU of Georgia Report. Mr. [redacted] stated that this report was scheduled for release May 16, 1966. A copy of this report is enclosed. b6 b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Enclosure

DO-6

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

MR. TOLSON
MR. DELOACH
MR. MOHR
MR. WICK
MR. CASPER
MR. CALLAHAN
MR. CONRAD
MR. FELT
MR. GALE
MR. ROSEN
MR. SULLIVAN
MR. TAVEL
MR. TROTTER
MR. JONES
TELE. ROOM
MISS HOLMES
MRS. METCALF
MISS GANDY

May 4, 1966

The attached copy of booklet "Tension Change and Liberty" -- the American Civil Liberties Union 45th Annual Report -- was sent to the Director from the American Civil Liberties Union, 156 Fifth Avenue, New York, New York.

Reference is made to the FBI on pages 71, 90, and 92.

nm

1 - ENCLOSURE
ENCLOSURE ATTACHED

REC-79 61-190-1151

EX 109

NOT RECORDED
MAY 27 1966

421731

CORRESPONDENCE

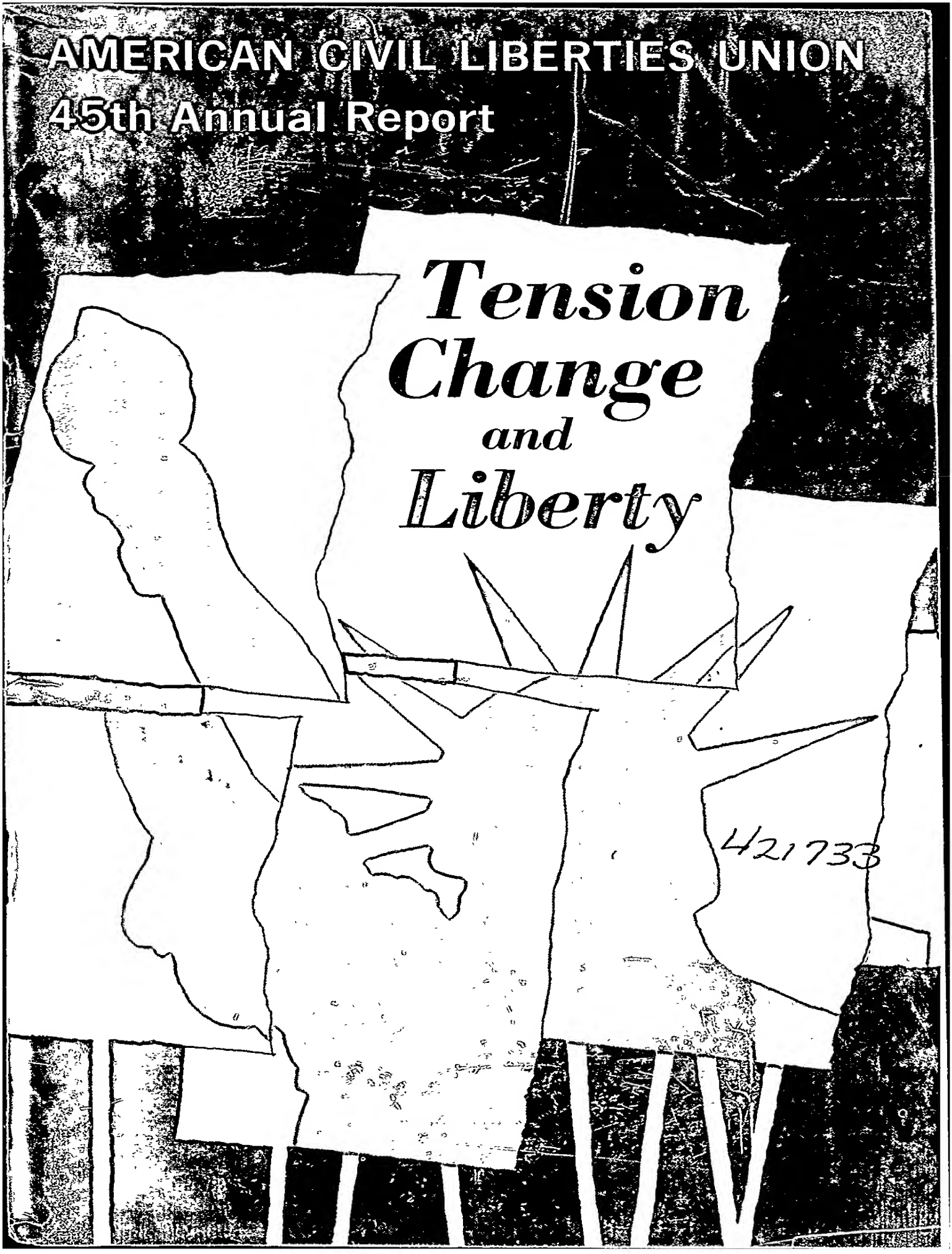
51 JUN 13 1966

AMERICAN CIVIL LIBERTIES UNION
156 FIFTH AVENUE • NEW YORK, N. Y. 10010
If Removed Locally Please Forward

AMERICAN CIVIL LIBERTIES UNION

45th Annual Report

Tension Change and Liberty



Tension Change and Liberty

45th Annual Report

AMERICAN CIVIL LIBERTIES UNION
156 Fifth Avenue New York, N.Y. 10010

Table of Contents

TENSION, CHANGE AND LIBERTY

By John de J. Pemberton, Jr.

During the first half of the Nineteen Sixties the open society of which our country boasts has demonstrably expanded its recognition and protection of those individual rights and liberties which are the essence of its "openness." But this expansion has been accompanied by the expectation that it would be followed by a new cycle of contraction. Not only have such cycles beset us in the past, but severe change in the world in which we live has forshadowed the development of enormous tensions likely to produce the fears and anxieties that lead to contraction. The year here reported may well have marked the beginning manifestations of some of these tensions; clearly their impact was felt on the protection of those liberties we associate with the open society.

I.

As always with events close at hand, the significance of those signs of contraction we have seen this year is difficult to comprehend fully. If we are pessimistically inclined, the evidence to support a prediction of full cycle contraction is easy to find. It can be found in the supressions of protests against our country's war and foreign policy and in a renewal of the hackneyed equation of dissent with disloyalty. These may not yet have become a clear pattern of repression, but certainly they have occurred too frequently to be classed as sporadic or isolated events. It can be found in the reactions of citizens and politicians to a growing incidence of crimes that grew out of urban frustrations, and to the rioting and mass violence which such frustrations have occasionally but explosively produced. It can be found in the severity of punishments on occasion meted out to participants in peaceful campus demonstrations who have been found guilty of trespass or other misdemeanors. It can certainly be found in the heightened tempo of violence practiced by segregationists on civil rights workers and in new expressions of the northern backlash to the civil rights movement. One could lengthen the catalogue indefinitely, but the major underlying factors appear to be the increasing involvement of the United States in the war in Southeast Asia, the continued growth of urban poverty and hopelessness, and the pace of change stimulated by an increasingly self-confident civil rights movement. Each of these factors has led to tensions and reactions that contract the protection of civil liberties.

Pessimism of an entirely different class is certainly justified on the part of the civil libertarian in looking at the burgeoning Great Society programs of the Johnson Administration. While designed in many aspects to open doors that previously have been tightly closed, especially those programs embodied in the Economic Opportunity Act of 1964 and the Elementary and Secondary Education Act of 1965, in all likelihood

these programs will impose a new pattern of relations between church and state in our society. What that pattern will be was not resolved in the enactment of this legislation and may be many years in being resolved, but the prospects for muddying a relationship of mutual independence between government and religion are real and considerable. The church-state controversies which have perennially contributed to preventing the enactment of school aid bills in prior Congresses, for instance, have been avoided in the terms of these two Acts by adherence to a theory, and by obscurity, in the application of that theory. The Acts adopt what has come to be known as the "pupil benefit theory," that the constitutional ban on aiding religious institutions with tax funds is avoided by aid given only to the beneficiaries of their programs (parochial school pupils and welfare service clients). But the difficulty which the Acts do not confront lies in the definition of what forms of public assistance aid only pupils and clients and what forms also enrich religious institutions (and, as a consequence, may give the support of government to the institution's doctrines).

Nor do these Acts consistently insure that degree of public control of religiously administered programs essential to provide equal and nondiscriminatory access to their benefits. It may be fairly said that the legislation (and almost as much, the administrative regulations and guidelines issued thereunder) defer to the practices and decisions of local administrators the actual resolution of basic conflicts over the meaning of the First Amendment's religion clauses and the actual definition of the pupil (or client) benefit theory incorporated in the legislation. Many decisions, by many different administrators, will be made at many different levels of public visibility, before it is established what patterns of church-state relations will emerge from this new legislation. We have entered an interim period of flux and uncertainty during which the forum of church-state controversy has been transferred from the national legislature to the local community. But even though the nature of the new pattern is not clear, it is certain that it will tend severely to affect the observance of this part of the Bill of Rights. Moreover, the pessimistic potential is greater because the likelihood of judicial review of federal practices that may violate the "no establishment" clause is far more remote than is the case in other areas involving the Bill of Rights.

II.

On the other hand, there is evidence to support the optimistic civil libertarian. While not necessarily quantitatively equal to or greater than that which may be marshalled by the pessimist, such evidence is nevertheless impressive.

First, it must be acknowledged that the extent of domestic debate over our nation's war and foreign policy, while unsatisfactory, is considerable, measured by comparison with the Korean and two World War periods.

Efforts to suppress this debate have occurred, but many of them—such as selective police protection of the rights of demonstrators and circulators of petitions, selective according to the point of view expressed—do not form a national pattern. A high point in the development of new forms for expressing dissent may have been achieved in the spread of the "teach-in" for, unlike the purely dmonstrative forms, it offers a vehicle for exposition and analysis of issues of great complexity and for developing the variety and significant shades of difference that may inhere in attempts to resolve them. When a major spokesman for the Executive Branch agreed to appear in debate with the government's outspoken critics on a nationally televised teach-in, a significant tribute was paid to this form.[1]

But perhaps the most noteworthy observation that can be made on the forms and extent of current debate on war and foreign policy is that competent observers have credited it with achieving a measurable influence upon that policy itself. This may be small comfort to either the "doves" (for the war goes on) or to the "hawks" in the debate (for they too are frustrated by the manner in which the war is being conducted), but it is consistent with the highest purpose which our traditions of liberty assign to debate—that of synthesizing wisdom from several sides of an argument. Let us be clear: this observation in no way suggests that the present policy of our government now embodies the ultimate in political wisdom for having enjoyed the contributions of many participants in a national debate. In terms of the magnitude, complexity and hazard of the issues at stake, the debate so far has been woefully inadequate. But men and women *have* engaged in debate and they have been heard.

Again the optimist may point to the subject of police practices and the rights of the accused. Despite the gathering storm of pressure for legislative restraint upon individual rights, steps continue to be taken that deal with some of the real gaps in our protection for the accused, especially those who are socially disadvantaged. Legislation aimed at reform of federal bail practices, so as to permit the indigent as well as the well-financed and well-connected accused to be at liberty pending trial, passed the Senate and will be given serious consideration in the House. The Attorney General promulgated rules designed to limit the release by federal law enforcement officials of some of the more prejudicial forms of pre-trial publicity. City officials who have fiercely resisted proposals long espoused by the Union (and vigorously, joined in by other civil rights groups) for civilian review boards to hear com-

1. It detracted from the importance of this teach-in, but hardly from the significance of this tribute, that the Presidential Assistant for National Security, McGeorge Bundy, was prevented by the overriding necessity of an assignment in the Dominican Republic from appearing on this teach-in. He later appeared in a less widely heard debate with some of the government's critics in an effort to make up for the earlier withdrawal.

plaints of police malpractice, have here and there made concessions to ameliorate some of the outstanding obstacles standing in the way of citizen redress for such abuse. Several jurisdictions have taken new steps to facilitate or improve the provision of counsel to indigent accused. The battle ahead continues to loom large, especially over legislative proposals to sanction common but presently unauthorized police practices. But it seems clear that the actual confronting of concrete issues in this area, a major contribution of the most controversial of the Spreme Court's decisions, so far has tended to produce solutions that move our practices toward conformity with long-ignored standards.

As encouraging as any of the optimistic manifestations was the defeat in the U.S. Senate in 1965 of the legislatively popular Dirksen amendment. The amendment was designed to modify the Supreme Court's reapportionment decisions (based on the equality principle of "one man, one vote") even while their application was affecting fundamental change in the distribution of power in the nation's fifty state legislatures. That power this great is not lightly yielded has been attested by the half-century of refusal on the part of most of these legislatures to reapportion themselves despite sometimes radical shifts in population. Members of both houses of Congress normally find their own political bases closely related to the base of power in their states' legislatures, and tended understandably to be sympathetic to the effort to propose to the legislatures a constitutional amendment by the ratification of which they might raise to legitimacy at least some degree of their own malapportionment. It is a tribute to the capacity of debate and controversy to arouse an informed public opinion, and of that opinion to prevail (when supported by favorable judicial interpretations of th Constitution) over the inconsistent interests of legislators, that a sufficient minority was mobilized in the Senate to preclude the two-thirds vote required in each house for proposing a constitutional amendment.

The optimists' view of civil liberties is based in large measure on the claim that gains won during a period of expansion are not easily withdrawn, even under pressures that would have foreclosed their being won in the first instance, and this claim may be right. But pessimism over the ultimate realities of one vital area, the struggle for equality in our society, is harder to rebut. The indicia of change in racial inequality—voter registration and political participation, improved and integrated educational opportunity, expanded employment and housing opportunity, and economic betterment—continue to lag when measured by either of two critical standards: the rising level of just expectations and the increasing pace at which such complexities of our society as automation and cybernation turn existing disadvantage into greater disadvantage.

Want of vigor in the enforcement of the newest federal statutory tools in the struggle, the Civil Rights Act of 1964 and the Voting Rights Act of 1965, are especially discouraging to the civil rights advocates who

know the insistence of the demand of rising expectations. It is in this context that the Union is proudly conscious of a development that may be classified on the optimistic side. Its own "Operation Southern Justice" (this Report, p. 86), launched from the base of the Union's new Southern Regional Office, has made an appreciable dent in the armor of segregation. Through several class suits it is challenging the system of selection of juries in jurisdictions (both state and federal) where that system consistently results in juries composed wholly of whites, and often wholly of white males. This effort has enjoyed the important support of the Department of Justice's intervention, under a power conferred by Title IX of the Civil Rights Act of 1964.

Like voting rights suits, jury selection cases are directed at the heart of one the major power bases in the segregated society. Not only is justice to defendents who are Negroes or civil rights workers at stake, but so also is their physical safety as potential victims of white crimes. More subtly, but perhaps as important, are the many collateral incidences of control over this power base, such as the capacity of a lawyer active in civil rights work or litigation to get trial justice for his other clients and, hence, to earn a living and remain in practice. The differential in the values in settlement of identical compensable injuries to a Negro and to a white man is a function of the present system of segregated justice; so, too, is the hazard of an unreasonable award in libel against a newspaper which has offended the sensibilities of those adhering to the dominant faith in segregation.

Especially at the level of discrimination in juror selection, but also in employment on southern police forces and in all of the instrumentalities of the administration of justice—courts, prosecutors offices, and prison systems—the Union's "Operation Southern Justice" is aimed at eliminating the all-white character of a system of justice which has persuaded Negroes—accurately—that it exists not for their protection but only for their oppression. Such change is essential for a nation committed to achieving liberty under a rule of law.

III.

Mass student demonstrations on the Berkeley campus a year ago, and student activity on other campuses, led to a flood of articles, books, and speeches this year on the subject of student unrest. The student generation of the Sixties, contrasting so sharply with the "silent generation" of a decade earlier, reflects in wider degree the developing unrest of a whole society. Student reactions to the hypocrisy of professing principles widely at variance with practice may have been more volatile than those of others in the society, but the Sixties have been marked by an increasing awareness of these variances. There exists a variance between our nation's professions of equality and the cruel inequalities suffered by our nonwhites and our poor; between our professions of justice and the crude injustices suffered at the hands of many law enforcement agencies and

many lower courts by those unable to finance legal assistance and bail; between our professions of free speech and the subtle means often employed to threaten loss of livelihood, loss of educational opportunity, or just official censure to some of those whose speech is found to be most offensive, or most threatening, by those who can enforce such threats.

Perhaps the most novel aspect of the unrest currently expressed in the student movement, however, is its pretension to a voice in the administration of those affairs which are of greatest concern to students themselves. The movement has asserted a right to influence policy not only concerning the regulation of campus life and student civil liberties, but concerning educational policy itself. Understandable there is alarm expressed at such assertiveness, but the development is hardly at variance with the meaning of democratic traditions. If, as Edmond Cahn has taught us,[2] the heart of democratic principles is reflected in a "consumer perspective" of government, no more appropriate practice of this principle could be imagined than the development of a consumer perspective toward the governance of educational institution. They are the very institutions looked to for the examination, nurture and transmission to another generation of our society's democratic heritage. This development is not to be confused with an imagined proposal that students replace faculty, administration and trustees in their respective responsibilities for the governance of a university; the proposition is no more than that students will be heard with a respect due their vital interest in the adequacy of their education.

Much the same may be said of the especial assertiveness heard in the voices of the student movement over issues involving military conscription and war policy. Again the assertion is that, as persons subject to conscription whose lives (and consciences) may be expended in the execution of war policy, youth have a special interest warranting their voice being heard in criticism or support of our nation's policy. (It is to the credit of the student generation that the response of their "hawks" to petitions, pamphlets and demonstrations to end U.S. involvement in the Viet Nam war has taken the form of counter petitions, pamphlets and demonstrations more often than that of attempts to repress the protests of the "doves.") Again it is not necessary to urge that military policy be made by conscriptees and potential conscriptees in order to welcome the voice of these persons who are especially affected by its outcome.

Perhaps the most optimistic inference to be drawn from this year's events affecting civil liberties is that the new assertiveness of the student movement, and the responsive chord heard from many of those students' elders, may foreshadow an enlarged determination by citizens to use those rights essential to the working of self-government—to use them in the definition, analysis and resolution of matters which, as consumers of government, they find to be most urgent today. This is important not

2. Edmond Cahn, The Predicament of Democratic Man, 1961

merely because it promises to resist tensions which work toward contraction of these rights and liberties. Its importance lies in the necessity for procedures of self government to be made to work effectively, so as to solve novel problems of enormous potential for social dislocation.

The test of our capacity to preserve civil liberties may already be posed by the growing tensions created by war, urban frustrations, and human rights expectations. To meet this test we must not only defend our rights successfully against each of the increasing challenges and threats to them. We must also prove our ability to use our rights in the resolving of the problems from which these tensions arise.

During the year 1965 the Union grew from a membership of 72,500 to 80,000. In October 1964 it opened its Southern Regional Office in Atlanta, Georgia, with a staff of two persons and this addition to the program of the national organization was supported during 1965 by the special contributions of the Union's several statewide and local affiliates. With assistance from this office, new affiliates were formed during the year in the state of Alabama and North Carolina and in addition, other statewide affiliates were formed in Kansas and Hawaii. An upstate New York organization joined with the New York City one to form a statewide affiliate in New York, serving for the first time substantial areas of that state that had been outside of the earlier two. At the end of the year 36 ACLU affiliates were actively providing civil liberties defense and education in 34 of the 50 states.

Increasingly the members of the Union are making the force of their commitment to liberty felt through the activities of these affiliates and their numerous metropolitan area chapters. Important parts of the legislative work of the Union (including that at the level of local governments and school districts), and of its growing program of public education are being done by our expanding non-lawyer membership, while the Union's work in litigation is expanding with the recruitment of additional volunteer attorneys. The tests America faces—to preserve liberty in the teeth of stormy change and to employ its uses to combat the storm itself——will be better met, if they can be met at all, because of the energies each of the Union's active members is devoting to our cause. Our work often consists of thousands of individual, minute parts, each dependent upon the talent and effort of one or a few individuals. Only when it can be done thoroughly, and in every city and every area of our land, will the work of the Union be adequate to the needs of our nation.

* * *

This report was written by Mitchell Levitas, a New York journalist, and supervised by Alan Reitman, the Union's Associate Director. It covers the period, July 1, 1964 to June 30, 1965 (with updating of important issues), primarily reflecting the activities of the Union but including those of other individuals and organizations. Legal citations are omitted because of limitations of space but all information on a particular case that is available to ACLU will be furnished on request.

FREEDOM OF BELIEF, EXPRESSION AND ASSOCIATION

Despite effectively organized vigilante opposition on the local level and intensive lobbying in many state legislatures, basic freedoms of speech, belief and association were enlarged by major U.S. Supreme Court decisions.

Years of effort by the ACLU and its affiliates finally resulted in striking down the federal screening of "Communist propaganda" mailed from abroad—an unconstitutional invasion of free speech which the high court unanimously set aside. Also speaking with one voice, the Court tightly tethered the authority of state and local film censors, but stopped short of declaring that pre-censonship was itself unconstitutional, which is the contention of the ACLU. Similarly, the decision by the high court to review several convictions for publishing and distributing allegedly pornographic literature may result in clarifying the vague standards outlined eight years ago in Roth. *Since then, however, these guidelines have proved unworkable, as evidenced by state and local attempts to outlaw obscenity at the expense of constitutional guarantees protecting free expression.*

In areas other than censorship, the record was less encouraging. The not-so-peaceful revolt on the Berkeley campus of the University of California sharply raised the issue of academic freedom for students. A few colleges attempted to restrict the rights of students to demonstrate over political and social causes, but in general these attacks were successfully opposed and students at several schools won the right to hear speakers of their own choosing without administrative interference. Meanwhile on campuses in several states, and in Congress, the fight to eliminate loyalty oaths for teachers and students moved ahead.

As the Administration moved to improve the lot of the poor and strengthen the nation's educational system, the ACLU cautioned against violating an even more vital public policy enjoined by by the Constitution: preserving the wall separating church and state. As federal programs get into full swing, some questionable practices may be eliminated, but others may well be tested in the courts. Widening the scope of religious freedom, as it has done for some years, the U.S. Supreme Court established the right of persons who do not adhere to orthodox religious beliefs to claim status as conscientious objectors.

In a significant decision running counter to a recent trend, the high court upheld the authority of the Secretary of State to prevent citizens from traveling to areas he has quarantined as "unauthorized." And in a long-awaited decision that established a new constitutional "right of privacy," the U.S. Supreme Court marshalled half a dozen constitutional amendments against Connecticut's attempt to regulate the morality of its citizens by forbidding the use of contraceptives by anyone, including married couples.

The General Censorship Scene

BOOKS AND MAGAZINES

Congress and the U.S. Post Office

The long campaign by the ACLU against federal screening of "Communist political propaganda" from incoming foreign mail was finally won in the U.S. Supreme Court, despite an 11th-hour attempt by the Post Office Department to avoid judicial review by changing its procedures in order to moot the basic issue. The high court met the constitutional issue head on, declaring that the right of individuals to receive their mail without interference is an essential ingredient of free speech.

The long-sought ruling invalidated a 1962 law requiring persons receiving mail (other than first-class) from Communist countries to make a special request to the Post Office to deliver it by returning a reply card. Otherwise, the mail is impounded. "We conclude," said the Supreme Court's unanimous opinion, "that the Act as construed and applied is unconstitutional because it requires an official act (returning the reply card) as a limitation on the unfettered exercise of the addressee's First Amendment rights. As stated by Mr. Justice Holmes: 'The United States may give up the Post Office when it sees fit, but while it carries it on, the use of the mails is almost as much a part of free speech as the right to use our tongues.' " The Court's opinion declared: "The addressee carries an affirmative obligation which we do not think the Government may impose on him. . . . Any addressee is likely to feel some inhibition in sending for literature which federal officials have condemned as 'Communist political propaganda.' "

The ruling was based on two cases before the Court. In one, appealed by publisher Corliss Lamont of New York City, the ACLU entered a friend-of-the-court brief challenging the constitutionality of the law.

The second case was brought by the ACLU of Northern California on behalf of Leif Heilberg of San Francisco, who had wanted to receive a Chinese Communist pamphlet written in Esperanto. A federal three-judge panel ruled that the practice requiring written authorization for the material was an unconstitutional restraint on the dissemination of ideas, in violation of the First Amendment *(see last year's Annual Report, p. 14)*. Furthermore, the court condemned the compilation of lists of persons receiving the material from Communist countries, since in the past the lists "were routinely turned over to the House Committee on Un-American Activities." Government assurances that the practice of turning over the lists of names has been discontinued "cannot be reasonably expected to mitigate a person's reluctance to have his name associated with 'Communist political propaganda,' " the court declared. In addition, the three-judge federal panel said that, in the absence of a

statutory requirement that the lists remain confidential, "there are no . . . assurances that this information will not be made available in the future."

After the U.S. Supreme Court agreed to hear the government's appeals in the Heilberg and Lamont cases, the Postmaster General announced a change in policy whereby he ended the practice of compiling lists of persons receiving the suspect mail — a practice the Post Office was never compelled to undertake. In view of the change, the Postmaster General said, the Court might feel it was appropriate to remand the two cases for reconsideration by Federal District Courts. The ACLU opposed the suggestion and the high court did, too. Another issue in which the Union's view also prevailed was whether, by releasing impounded mail, the Post Office Department might properly moot cases brought by people who wished to challenge the statute itself and therefore declined to return a postcard requesting the mail. The Department had used precisely this strategy when it was confronted by the first challenge of the 1962 law, launched by the ACLU of Southern California. When a Pasadena truck driver, Charles Amlim, refused to forward the reply card the Post Office treated his complaint as a request for the mail (a pro-Communist newspaper published in Tokyo) and sent it along, thus evading a legal test of the law.

The high court ruling put a stop to such evasions, ending the life of a law under which nearly 100 million pieces of mail from abroad were screened, at a cost of more than $500,000. Prior to the 1962 law, the censorship was conducted as an administrative practice, particularly during the heyday of McCarthyism in the 1950's. Then, as protests mounted, it was curtailed and by 1960 the planning board of the National Security Council recommended that it should be abandoned completely. It was, only to be revived as a rider to a vital appropriations bill. It was this legislation that the Supreme Court reviewed and struck down.

The Post Office Department ran afoul of an angry Senate Judiciary subcommittee over sanctity of the mails. Two encounters resulted in a split decision. In the first incident, Postmaster General John A. Gronouski promised to issue new regulations tightening controls over the use of mail covers, but refused to turn over to the subcommittee a list of 24,000 names whose mail was being watched on the grounds that it would "seriously violate the civil liberties of many innocent people." Senator Edward Long, chairman of the Senate panel studying governmental invasions of privacy, withdrew his demand for the list but commented: "There is no indication that you feel that the civil liberties of the same persons might have been violated by the placement of mail covers without their permission or knowledge and without any statutory authority." The practice, Long said, "appears to violate the longtime sanctity of the U.S. mail as a means of purely private communication." In the second incident, the Post Office ruefully admitted it was wrong in seizing the mail of "flagrant" tax evaders and turning it over to the Internal Revenue

Service. "We've been doing it wrong, no question about it," a Post Office official conceded. Nevertheless, the seizure of mail by the IRS remains a very real possibility under legislation passed by Congress. It is possible for the IRS to obtain mail covers on people whose property is subject to levy, and then have an IRS agent stand by when mail that may contain valuable property is delivered. The agent could then intercept the mail immediately after delivery, since at that point such mail is subject to levy and, hence, seizure.

Objecting that the proposed cure was more deadly than the disease, the ACLU testified against a proposed House bill to create a Commission on Noxious and Obscene Matters and Materials which might, in effect, establish a national board of censorship. The Union noted the appeal of "easy solutions" to the problem of obscenity. "There are many who believe that if we can give some public official broad powers to stop the flow of 'smut' we shall then have gone a long way toward insulating our children from pernicious influences which may lead them into degradation and crime," the Union observed. Nevertheless, such "solutions" are illusory for several reasons. First of all, said the ACLU, there is no proof that a causal relationship exists between allegedly pornographic material and the commission of anti-social acts by children, or adults, for that matter. Rather, there is considerable controversy among experts on the issue. Yet the bill proceeds on the unwarranted assumption that certain printed matter has a "morally corrosive effect" on readers.

Turning to the constitutional questions raised by the proposal, the Union cited the difficulty of juries, judges and the U.S. Supreme Court itself in arriving at a universally satisfactory definition of obscenity. "What may be offensive to one person may be great art to another person," the ACLU testified. "And frequently such individual judgements condemn most severely only controversial expression — the very kind of speech for whose protection the First Amendment was written." Moreover, by providing no judicial procedure to determine what comes within the purview of the proposed commission, and by proposing to suppress some printed matter, the Commission will further violate the First Amendment, the Union said.

The same Congressman responsible for the ill-fated rider authorizing the screening of "Communist political propaganda" returned to the censorship stage in a campaign against "morally offensive" mail. For the third consecutive congressional session Representative Glenn Cunningham introduced, and the House of Representatives passed, a bill allowing any postal patron to force the Postmaster General to stop mail the addressee regards as morally offensive. The ACLU has repeatedly opposed the measure as a form of pre-censorship and restraint on free speech, since the complaint of any one individual can set in motion a chain of events that could punish the sender by holding him in contempt of a federal court order. Controversial mailings on any subject probably would be found morally offensive to someone, who could move to put

the sender in contempt if the mailing continued. Any group, the AMA or the NAACP, would be affected. As for the bill's stated aim of suppressing obscenity, the ACLU objected to the "subjective judgement" of obscenity by the recipient, rather than on what has been "judicially determined" to be obscene. The Union pointed out that the U.S. Supreme Court has ruled that material which is not obscene enjoys the freedom of the press. By allowing any person to determine obscenity, the bill could affect material which is entitled to constitutional protection. These arguments apparently carried weight in the Senate, which for the third time allowed the Cunningham bill to die.

The ACLU protested the seizure and reading of a woman's diary by a U.S. Customs Service border office in Laredo, Texas. The Union, which has lodged complaints against the Customs Service on past occasions, repeated an appeal for a clear and simple directive informing officials of the constitutional rights and proper procedures to be used in dealing with travellers. The Union said that seizing the woman's diary, as well as conducting an internal physical examination, "was an affront to the First Amendment's protections against abridging individual freedom of expression and also an unwarranted governmental invasion of privacy."

The Courts

The U.S. Supreme Court agreed to review the obscenity conviction of Ralph Ginzburg, publisher of *Eros,* again raising the question of definition it faced in the *Roth* case eight years ago. At that time, the Court said the test of obscenity is "whether to the average man, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest." All ideas "having even the slightest redeeming social importance," however, are protected.

Ginzburg was convicted in a Philadelphia Federal District Court in 1963 and sentenced to five years in prison and a $28,000 fine for alleged violation of the postal laws by using the mails to distribute *Eros* and other publications on the subject of sex. The ACLU and its Pennsylvania affiliate argued then, and again before the U.S. Court of Appeals for the Third Circuit, that the only utterances which can be constitutionally restricted are those which can be shown to create "a clear and present danger of anti-social conduct" *(see last year's Annual Report, pp. 13-14).* Now, for the third time, the Union and its Philadelphia affiliate challenged the constitutionality of the *Roth* doctrine and present federal censorship laws in a friend-of-the-court brief submitted to the U.S. Supreme Court.

The brief argued that the Court and commentators alike have recognized the *Roth* doctrine as "vague and unworkable." In the case of Ginzburg, the brief declared, three "enormous if not insurmountable difficulties" were raised by *Roth:* "(1) How are the standards of sex portrayal 'in a manner appealing to prurient interest' and 'having a tendency to excite lustful thoughts' to be applied in concrete cases; (2) Who

is the 'average person' whose 'prurient interest' or 'lustful thoughts' need to be aroused before material may be judged obscene? What of material designed for a special audience? (3) How is the determination that material is 'utterly without redeeming social importance' to be made? . . . By the application of literary or artistic standards or left to the determination of juries?

"The question in each case," the brief said, "is whether the words or pictures are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about a substantive evil which the state has a right to prevent. . . . There is no demonstrable connection between the evil which obscenity statutes are intended to avoid and the means chosen to avoid that evil." Furthermore, argued the Union and its affiliate, "some of the 'evils' alleged are not evils in a society which cherishes and thrives on freedom and liberty."

At the same time the Supreme Court will hear argument on the Ginzburg case, it will have two further opportunities to redefine the standards of obscenity set down in *Roth.* The tribunal will hear the appeal of Edward Mishkin, a New York City man convicted of publishing books on sadism and masochism. Also pending before the Court is the obscenity conviction of David E. Keney of Rochester for selling copies of *Lust School, Lust Web* and *Sin Servant.*

Continuing its attack on obscenity standards laid down by the *Roth* case, the ACLU filed a friend-of-the-court brief on behalf of two Fresno, Calif. mail order book dealers convicted in a Michigan Federal District Court for selling *Sex Life of a Cop.* One dealer, Sanford E. Aday, was sentenced to 25 years in prison and fined $25,000; the other, Wallace De Ortega Maxey, received a 15-year sentence and a $19,000 fine for transporting copies of the book from California to Michigan. The brief, entered by the Union and the ACLU of Michigan before the U.S. Court of Appeals for the Sixth Circuit, called the sentences "draconian" and "a direct and impermissible interference with rights guaranteed by the First, Fifth and Eighth Amendments" protecting free speech, due process and barring cruel and unusual punishment. The brief noted that the heavy penalties were the most severe in U.S. history relating to the publication or distribution of reading materials. To impose such fines and prison sentences "is to sanction and encourage censorship by intimidation on a gigantic scale," the brief declared.

As for the question of obscenity, *Roth's* definition begs the question, the brief argued, "for obscenity is not a peculiar genus to be identified like poison ivy." Moreover, added the Union, "it is difficult in a culture where sex is used to sell cigarettes and detergents to believe that the circulation of this volume could pose a serious threat to any interest which the government has a right to protect against." As in the Ginzburg brief, the Union said that only the "clear and present danger" standard is sufficient justification to suppress free expression.

The famed *Little Blue Books* published in Girard, Kan. by Henry

J. Haldeman have survived the scrutiny of the U.S. Court of Appeals for the Tenth Circuit. Haldeman was convicted of mailing lewd material but after reading the eight Blue Books involved, written to provide sex education on a variety of unusual topics, the appeals court ordered the indictment dismissed. The decision said that the forms of sexual behavior described in the books "are common problems about which there is considerable literature, including discussions in many text and reference books." The Lawrence, Kans. ACLU Chapter, had urged reversal of the conviction in a friend-of-the-court brief protesting suppression of the books on obscenity charges and objecting to judicial denial of First Amendment protections against censorship. The affiliate said the trial judge erred in allowing the jury to decide whether the books were obscene, rather than deciding himself.

In other obscenity prosecutions opposed by ACLU affiliates:

¶ The Civil Liberties Union of Massachusetts filed a friend-of-the-court brief supporting the publishers of *Fanny Hill* before the state's highest court. The court ruled the book was obscene, and the decision is on appeal to the U.S. Supreme Court. The Hampden County Chapter of the CLUM, meanwhile, filed a brief on behalf of two Springfield booksellers indicted for selling another erotically entertaining novel, *Candy.*

¶ The ACLU of Northern California won a victory when the federal government abruptly abandoned its appeal of an adverse ruling ordering the return of 2,000 imported "girlie" magazines.

¶ An attorney of the Indiana CLU is defending a bookseller arrested for offering *Tropic of Cancer,* more than a year after the U.S. Supreme Court thought it had settled the issue in a case brought by the Florida CLU that the Henry Miller novel could not be constitutionally banned *(see last year's Annual Report, pp. 11-12).*

State and Local Issues

Encouraged, perhaps, by the vague standards of obscenity set by the *Roth* case, state and local lawmakers continued to consider measures designed to "outlaw obscenity." In New York State, Governor Nelson Rockefeller vetoed all but two anti-obscenity bills, but the two he signed were contradictory and put enforcement "into a legal mess," the New York CLU declared. One bill deals with the distribution of allegedly obscene material to minors under 17 and specifies that the material must be "utterly without redeeming social importance" before it can be banned. Another bill, however, affects material distributed to minors below the age of 18, and includes "nothing . . . which would conform to the standard required by the U.S. Supreme Court," the NYCLU said. Moreover, said the affiliate, the law will result in the suppression of material that is constitutionally protected.

Rather special circumstances prompted an anti-obscenity campaign

in Minnesota, where legislators were aroused by allegedly obscene material entering from outside the state. The proposed Minnesota law, successfully opposed by the ACLU affiliate, would have allowed a court to issue a temporary restraining order without notice to the defendants if it appears that "immediate and irreparable" moral injury will occur "before notice can be served and a hearing had." To speed things further, the Secretary of State is named in the bill as the agent for any nonresident for service of process in any action taken under the suggested legislation. In two other protests lodged by the Minnesota CLU, the affiliate objected to a campaign against allegedly pornographic magazines and books in St. Paul, launched by the Mayor, on the ground that the courts, not city officials are the proper judges of obscenity; and, in a similar situation, the affiliate is planning legal action against the St. Paul Metropolitan Airports Commission for coercing news dealers into removing allegedly obscene material from airport stands. The Airport Authority in Indianapolis came under fire from the Indiana CLU. Acting on a complaint that *Playboy* was not being sold at the Municipal Airport, the affiliate pointed out the unconstitutionality of such prior censorship to authority officials. The magazine was then made available on the newsstand.

Once again, Congress considered an omnibus crime bill containing severe penalties for obscene material circulated in the District of Columbia. Its chief new feature added films to the list of items under scrutiny for possible obscenity. The National Capital Area CLU raised strong constitutional objections to the measure, which faltered in the Senate-House Conference Committee but may be revived in the next session of Congress.

In two other cases by ACLU affiliates:

¶ The ACLU of Oregon undertook the appeal of a Klamath Falls service station operator convicted for selling a paperback book, *Lust Pad.*

¶The Arizona CLU worked with a private attorney and filed a friend-of-the-court brief upholding a newsstand dealer arrested for the sale and possession of allegedly pornographic magazines; the charges were dismissed.

Why was the service station operator in Oregon convicted and the newsstand dealer in Arizona freed? One possible reason was put forward by a law enforcement official who ought to know: the chief of police of Detroit. Transferring one-third of the Police Censor Bureau staff to other duties, the police chief explained the bureau "could not contend with the complete confusion in the field of obscenity enforcement. Things have gotten to the point that no one can define obscenity," he said. "It doesn't make any sense to have a squad of police officers ruling on what is or is not obscene, when there is no definition to test."

Private Pressure Groups

The prime targets of vigilante groups seeking to ban "offensive" material are newsstands and classrooms, but organized censorship by police, public officials or parents is hardly the answer in a free society.

An example of such action was a municipal campaign against the sale of salacious magazines and books in Mt. Kisco, N.Y. Opposing it, the New York CLU took the position that though the material may have no merit, using police powers to curb free speech and free expression was even more reprehensible. "Bypassing the law is the first step toward anarchy," the NYCLU declared. "The most effective way for a community to combat pornography is to support a positive plan for better libraries and cultural programs." One of the most active private pressure groups are the Decent Literature Committees, with chapters in many communities. In New Jersey, where the group has grown in recent years, the South Jersey Chapter of the ACLU of New Jersey backed a newspaper and magazine distributor who was the target of vigilante pressure. Striking back at the book-banners, the distributor also sued them for $100,000 for allegedly acting in restraint of trade.

Several ACLU affiliates also took steps opposing censorship in the schools. Among such actions:

¶ The ACLU of Washington state played a key role in a significant local victory when a widely-respected social studies school magazine was restored to the classrooms of a Spokane school district. The battle began when a parent objected to the use of *Read* magazine in her daughter's class. The teacher suggested that the girl change classes but instead the school board banned *Read.* The affiliate's Spokane Chapter entered the case at the teacher's request, and following a hearing by the school board, the magazine was restored to the classroom.

¶ The Illinois Division applauded the Chicago Board of Education's decision to resist parental objections to James Baldwin's novel *Another Country.* The book was on the assigned reading list of Wright Junior College, which infuriated the parent of a student. He demanded the withdrawal of the novel from the list, but officials ruled that the school faculty and administration were the proper judges of their own curriculum.

¶ The National Capital Area CLU, in a friend-of-the-court brief, challenged the constitutionality of firing a Maryland high school teacher who assigned *Brave New World* to his English class.

¶ The Kentucky CLU successfully fought a case that involved a school-connected group's attempt to censor newsstand publications. The affiliate persuaded two county PTA councils to withdraw law suits against publishers whose material the PTA groups considered indecent.

MOTION PICTURES

The Courts

Two decisions by the U.S. Supreme Court drastically curbed the authority of state and local film censors, imposing strict guarantees on the right of free expression. The high court did not change its view, expressed in 1961, that the film censorship laws were not unconstitutional because they required a censor's approval before a public showing. But by specifying tight procedural safeguards for First Amendment rights of untrammeled expression, the Court implicitly raised the question of whether state and local film censorship boards could function.

The basic opinion, issued unanimously, struck down the Maryland film censorship law. The case had been brought by Ronald L. Freedman, a Baltimore theater owner who showed the film, *Revenge At Daybreak,* without the censor's stamp required by law. Supporting his appeal to the U.S. Supreme Court in a friend-of-the-court brief, the ACLU and its Maryland Branch struck hard at pre-censorship as unconstitutional. "There is no reason why our motion picture exhibitors can be validly hobbled in this respect where our newspaper and magazine distributors, our phonograph record outlets, our radio and television broadcasters cannot," the brief declared. It also questioned the capacity of film censors to make esthetic judgements, especially in view of the fact that films are judged and censored by vague standards.

While the high court did not back the Union's position on the unconstitutionality of precensorship, it unanimously backed the arguments raised in the brief for rigorous procedural safeguards to protect free expression. Spelling out three criteria, the Court ruled: (1) the burden of providing that a film cannot be shown rests with the censor; (2) the censor's decision cannot be final; final restraint can be imposed only after judicial review; (3) the procedure must be speedy, minimizing the time between the censor's interim opinion and the final judgement of a court.

The second action by the high court consisted of citing without comment its Maryland decision in reversing censorship by New York State of a Danish film, *A Stranger Knocks.* The exhibitor had first sought a license to show the film in March 1963 and turned to the courts when the license was refused. Not until March 1964 did the state Court of Appeals decide to uphold the ban unless certain sexual sequences were cut. New York's film censorship authority hastily adopted new regulations purporting to conform with the procedural guarantees outlined by the U.S. Supreme Court. But these were ruled unconstitutional by the state's highest court, which in effect, put the state censor out of business. Similarly, a lower court in Virginia held that the state film censorship law did not conform to the U.S. Supreme

Court's decision, which movie exhibitors interpreted to mean that they will no longer be forced to submit any film for approval by the Virginia Censor Board. The Virginia decision left two states with an official screening board — Kansas and Maryland. The Maryland state legislature hurriedly passed new legislation, prescribing a maximum 15-day wait between the film board's determination of obscenity and a judicial ruling. Whether the new procedure satisfies the U.S. Supreme Court remains to be tested, since the exhibitor of *Revenge At Daybreak* has initiated a challenge of the latest statute. Procedures of the Kansas Board have been revised to meet the Supreme Court's test, although a group of film distributors have objected that the changes are contrary to the Court's rulings.

Meanwhile, Chicago, one of 15 municipalities which censor films, also moved to bring its procedures in line with the guarantees of free expression demanded by the high court. The Illinois Division of the ACLU condemned the "patchwork of amendments" and urged Chicago to give up the costly, time-consuming litigation under the law and instead abandon movie censorship entirely before it is rejected by the courts.

Tennessee's 105-year-old obscenity law was declared "invalid and unconstitutional" by the state Supreme Court, only to be replaced by a new obscenity law that borrows some language from *Roth* ("anything which has as its predominant appeal to prurient interest") to cover almost any "exhibition" from the newsstand to the movie theater. Meanwhile, a Federal District Court struck down the Memphis Censor Board which has been notoriously active over the years, on the ground that it constitutes a system of prior restraint in violation of the Fourteenth Amendment.

The New York CLU filed a friend-of-the-court brief in a case that attracted brief, but lively, national attention: the attempt by Notre Dame University to prevent the distribution of the film or the book, *John Goldfarb, Please Come Home.* The movie was a farce, but Notre Dame claimed that its right of privacy was violated in the film, and for purposes of commercial exploitation. No free speech rights were involved, the university declared. The NYCLU challenged this contention, arguing that the name was in the public domain and that Notre Dame's suit for an injunction was a prior restraint of free speech. The school should sue for libel if it felt itself damaged, the brief said, and not attempt to violate constitutionally protected rights. Though a preliminary injunction was issued, it was dismissed on appeal. Prompted by the *Goldfarb* case and other court decisions in which the issue of freedom of expression and the invasion of privacy were involved, the Union initiated an extensive analysis of the problem.

State and Local Issues

Despite the setbacks to movie censorship in the courts, the issue remains popular with some legislators. The Rhode Island legislature, for example, passed a bill allowing local licensing authorities to block exhibition of a film for 48 hours while reviewing it or seeking an injuction. But the Rhode Island Affiliate, ACLU, opposed the bill, joining theater owners, and it was vetoed by the Governor. In another action, the Rhode Island Affiliate strongly protested the lifting of a license of a Warwick movie theater because it showed *Kiss Me Stupid,* a film condemned by the Roman Catholic Legion of Decency.

A proposed film censorship law in Pennsylvania was denounced by the Greater Philadelphia Branch of the ACLU as a "substantial and unwarranted restriction on freedom of expression." The bill requires registration of film distributors and exhibitors in the state, written 72-hour notification prior to the premiere of any film and furnishing a Motion Picture Preview Board with a copy of the film. The board would have the power to enjoin the showing of any film it believed "violates standards set down by the courts for obscenity."

Seattle, Wash. passed a censorship ordinance which was opposed by the ACLU of Washington. The ordinance retains an age limit of 21 for movies classified by a supervisory board as "adult entertainment," but sets up a new category of 18-21 for other movies. Quite apart from the question that age distinctions between 18 and 21 are unjustified gradients of maturity, especially in a university community, the ACLU affiliate called the measure unconstitutionally vague and a form of prior censorship.

Intervention by the CLU of Massachusetts has ended the oft-heard cry "banned in Boston" which the rest of the country usually took to mean that the banned movie, book or play was a mature and creative work of art. Instead, the system of tyrannical precensorship that barred such works as *Strange Interlude* and *Within the Gates* has surrendered to mere supervision of public entertainment by the city administration, relying on existing laws and due process enforcement. The system began in the 1920's under the regime of Boston Mayor Curley. All plays performed in Boston had to conform to an eight-point rider attached to contracts between Boston theater owners and New York producers which prohibited suggestive dialogue or behavior, scanty clothes, portrayal of drug addiction, or the use of profanity. Power to enforce the rider's injunctions were vested in a city censor, who used it.

The system was challenged by the Union affiliate when the widely-acclaimed play, *Who's Afraid of Virginia Woolf?,* was forced to make certain changes on the basis of the rider. CLUM representatives met with Mayor John F. Collins, who assured them that the censor would no longer be permitted to exercise veto power. Subsequently, the affiliate

announced that the rider will no longer be included in contracts governing theatrical performances in Boston.

In other cases involving ACLU affiliates:

¶ The Cincinnati Chapter of the Ohio CLU succeeded in obtaining the release of a Viet Cong propaganda film mysteriously seized by a U.S. Customs Agent from Cleveland, apparently operating on instructions from his superiors in Washington, but without the knowledge of the local U.S. Attorney.

¶ The ACLU of Southern California advised a local chapter of the United Nations Association to show a documentary film despite threats of a libel suit. The group had requested advice when a California Congressmen, James B. Utt, threatened to sue the organization for libel if it should show a CBS film tracing a right-wing rumor that a U.S. Army training exercise was, in fact, a United Nations plot to take over America.

¶ The New York CLU defended an art gallery owner arrested by police for displaying "lewd and obscene" paintings and drawings. The gallery owner said that his arrest demonstrated a logical progression from "pop art," through "op art" to "cop art."

RADIO AND TELEVISION

Diversity of Programming

Revising an earlier position, the ACLU fully endorsed the system of pay television as a means of increasing diversity on the air. "Licenses to broadcast should be judged in terms of the public interest, convenience and necessity," the Union declared. "And since the ACLU believes that diversity is an essential element in this field, we resolve that one way of promoting such diversity is to remove all restrictions on pay-TV other than those falling within the framework of existing laws governing radio-TV communication." At the same time that the Board of Directors announced its policy change, the Union declared its support of the effort to enjoin enforcement of Proposition 15, which outlawed pay-TV in California. The ban, the Union declared, abridges rights protected by the First Amendment — "the right of the public to hear TV programs of their choice"—and the liberty protected by the Fifth Amendment's due process clause.

The Union's earlier estimate of pay-TV was made in 1955. At that time, the ACLU expressed the reservation that current plans for pay-TV might weaken the First Amendment interest in increasing information and opinion. The ACLU then suggested these safeguards: (1) no sponsors on pay-TV; (2) no pay-TV should be permitted in a city unless there are two other free channels; (3) a time limit for the experiment; (4) pay-TV must guarantee something not now available on free television, if asked to do so by the Federal Communications Com-

mission. The new ACLU policy eliminates these conditions. The first and second were withdrawn on the grounds that they do not foster civil liberties and might, in fact, reduce diversity by limiting competition among different franchises. The third was deleted because pay-TV is no longer an experiment. The fourth condition was dropped as discriminatory because no other television system must give the FCC such special guarantees.

As for Proposition 15, despite its approval in a referendum, it quickly moved onto the docket of the California Supreme Court. On its first test the ban on pay-TV was defeated by a lower court judge who declared: "Invention and progress may not and should not be so restricted, at least when they are cloaked with the immunity of the fundamental freedom." When the case reached the California Supreme Court, the ACLU of Northern California and the Union filed a friend-of-the-court brief supporting the free expression ruling of the lower court.

In a second major step, the ACLU announced its support of the FCC's "fairness doctrine," which was a source of controversy for months in the broadcasting industry. Recent FCC interpretations of the doctrine state that persons or groups attacked on the air be given time to respond, and when a partisan position is taken on a political election issue an opportunity for an answer be afforded. It also declares that when views are expressed on current, important issues such as a racial discrimination, opposing responsible groups should get airtime to speak out.

The Union backed the doctrine in the interests of enlarging diversity on the airwaves, while acknowledging that problems remained in enforcement. "Because of the limited number of channels which technically can be developed in the radio and TV spectrum," the statement said, "government regulation is necessary to avoid chaos. Government regulation always carries with it the possibility of censorship, and the ACLU is especially sensitive to this danger. However, each FCC step toward actually increasing diversity — without interfering with program content — deserves the backing of civil libertarians eager to have the First Amendment utilized for the resolution of public issues." The Union questioned certain procedural requirements of the "fairness doctrine," notably the submission of broadcast transcripts by stations to persons or groups attacked. Although it did not take a position on such a requirement, the Union confessed "strong reservations" about its practicality.

Implementing its "fairness doctrine," the FCC ordered a Jackson, Miss. radio station and television station to cease racial discrimination in its programming. But by issuing the stations one-year probationary licenses and refusing to hold a public hearing upon complaints that these stations and three others consistently violate the law and should not be granted license renewals, the FCC drew the strong opposition of the ACLU and the United Church of Christ, which had pressed the complaint.

In April 1964 the United Church of Christ petitioned the FCC to

allow the licenses of Jackson television stations WJTV and WLBT to expire on the grounds that the stations systematically ignored the needs and interests of the Negro population in their service area. The ACLU wrote to the FCC, arguing that public hearings were necessary to determine whether the licences of the allegedly segregationist stations should be renewed. The Union said the hearing would help the Commission judge fairly whether federal or local measures should be taken against the stations if they should be found guilty of consistently and intentionally misrepresenting the Negro population which constituted 40 per cent of the area. The FCC granted the customary three-year license renewal to station WJTV and its companion radio station largely on the grounds that they had apparently reformed since the United Church of Christ filed its petition. In the case of the other television station and its two radio affiliates, the FCC voted 4-2, to grant a one-year probationary renewal with a stern directive that they "immediately cease discriminatory programming patterns," as charged in a separate complaint filed by the AFL-CIO. The United Church of Christ then appealed to the U.S. Court of Appeals for the District of Columbia to order the FCC to hold hearings, which the ACLU supported.

A Senate subcommittee investigating juvenile delinquency received its share of criticism and support from the ACLU for an interim report on television. The Union opposed a subcommittee proposal urging television networks to cooperate in producing children's programs. "Competition between networks offers a better chance for variety of programs than joint programming," the ACLU said. The Union also opposed three other subcommittee proposals and supported two recommendations made in the interim report by the panel. The Union said it would be willing to support a revision in a program service form, submitted by the broadcaster to the FCC at the time of a station's license application or renewal, to show the extent of children's programming. At the same time the ACLU warned that "only actual federal regulation of program content" would deter the broadcasting of violence and brutality and such legislation would be unconstitutional under the First Amendment. The Union also objected to recommendations making membership in the National Association of Broadcasters mandatory and invoking stiffer penalties for violation of the NAB code on the grounds that the code would tend to restrain freedom in the trade of ideas, while setting up a quasi-governmental set of regulations governing pre-censorship, which is "patently unconstitutional."

The ACLU supported a subcommittee recommendation to promulgate an FCC rule encouraging public comment on children's programming. The Union also strongly supported a proposal for long-range research into the relationship between TV viewing and juvenile behavior. "So much of the drive to remove certain kinds of programs from the air, which always raises the peril of censorship, is rooted in the premise that such programs have a direct, harmful effect on the behavior of young child-

dren," the Union said. "The kind of research envisaged can help resolve the basic question of causal relationship."

The FCC approved the transfer of control over an AM-FM radio station in the Philadelphia area to a group headed by the Reverend Carl McIntire, generally regarded as a right-wing extremist. Many labor and religious groups protested the sale, arguing that the Rev. McIntire was irresponsible and his opinions were disruptive. The Greater Philadelphia Branch of the ACLU urged the FCC to approve the transfer, declaring that if the FCC were to accede to the protests, "government would be engaged in passing judgement on the worth, truth and social value of opinions. This, we submit, is governmental censorship." However, added the affiliate, should the new owner abuse the franchise "by suppressing opinions contrary to his own, his license may, in fact, should be revoked."

Loyalty and Security

The ACLU adopted a policy statement governing the rights of broadcasting employees who engage in political activity. The Union said it would oppose the firing of any employe, merely because of his identification with a political or controversial issue. But because of the sensitivity of the news field, it would not quarrel with a network or station that temporarily transferred a newsman to a different position if he was so identified. "Our review," the Union said in a letter to the three major networks, "was not based on a particular case or complaint, but on the broader level of determining whether citizens' exercise of freedom of speech is curtailed."

The Union statement distinguished between two groups of employes: those who are purely entertainers, and should be allowed "full freedom in their non-broadcasting activity as a demonstration of support for the right of the individual citizen to express his opinions without fear of economic or social sanction;" and newsmen involved in presenting the news to the public. In the latter category, "there is fear that such participation will not only affect the newsman's own presentation on the air, but will remove the impression of integrity and total credibility which the network or station seeks to project to the audience." The Union emphasized it was not urging broadcasters to transfer such employes to less visible jobs, temporarily. Any penalty more drastic than that, the ACLU warned, "would offend the spirit and meaning of the First Amendment," and would be vigorously opposed.

NEWSPAPERS

Prompted by a number of incidents in the past several years in which non-commercial advertising was refused by newspapers, magazines and the electronic mass media, the ACLU urged the proprietors of such

marketplaces for ideas to allow all points of view to be expressed through their advertising facilities. The statement by the Union, modifying a previous stand that upheld a publisher's right under the First Amendment to be free to accept or reject advertising, took note of changes in communications that have made it almost impossible for an advocate to receive serious consideration for his views unless it is heard by large segments of the public through the mass media. "The public interest in freedom of speech will be well served if communications media were publicly to declare and adhere to an 'open' policy with repect to acceptance of non-commercial advertising," the ACLU said. Such advertising includes expressions of opinion or recommendations for action or political or social issues; among the advertisements on such subjects that have been refused in recent years by mass media have been advertisements for "peace" groups, an organization devoted to the interests of homosexuals, and political candidates. Advertisements for informational and cultural works such as books and motion pictures should also be treated as non-commercial advertising, the ACLU said, since these items — even though they are advertised for sale — may themselves be the means for exposing controversial viewpoints to the public which is the essence of the First Amendment.

The ACLU urged privately-owned media voluntarily to adopt a policy under which fairness will prevail, subject to publishers or radio-TV station owners requiring "compliance with existing law and with reasonable non-discriminatory regulations." While encouraging the communications media to adopt its position, the ACLU said exceptions may be made for publications with "specialized audiences, such as labor union members or a religious group."

A different test was applied to media involved more with public ownership or regulation. Privately-owned but government-regulated radio and television stations which, under their FCC-granted license are obliged to operate in the public interest, have "a special obligation to accept advertisements dealing with political, social, religious or economic issues, whether or not contrary viewpoints have first been aired," the ACLU said. This necessarily includes the explicit obligation to accept advertisements rebutting views previously presented in other advertisements. Publicly-owned media, the statement urged, should be required to follow this policy if they accept advertising, as should the privately-owned, but government-regulated bus and subway monopolies.

The Courts

The U.S. Supreme Court extended to criminal libel cases the so-called *New York Times* rule, which limited state power to punish criticism of public officials to situations where a statement is made "with actual malice—that is, with knowledge that it was false or with reckless disregard of whether it was false or not" *(see last year's Annual Report, pp.*

29-30). The unanimous decision broadening the landmark ruling was made in the case of Jim Garrison, the District Attorney of Orleans Parish, La., who was convicted of criminal defamation for criticising eight local judges.

A policy statement by the ACLU squared with the high court's decision in both the *Times* and *Garrison* cases. Completing an 18-month review of libel and free speech, the Union declared its opposition to libel suits by persons in political life unless they could prove "with convincing clarity" that the statements conformed to the Supreme Court definition of malice. At the same time, the ACLU reaffirmed its position that, outside the area of politics, ordinary libel suits do not raise civil liberties issues but that criminal and group libel laws do violate First Amendment guarantees of free expression.

As regard to libel suits in politics, the Union said its policy statement was prompted by the need to permit "the widest scope of criticism and free discussion of public affairs. . . . Speech cannot be restricted without making government the arbiter of truth," the statement warned. Persons within the realm of politics were defined as those who hold, have held or are aspirants for public office, which include either elective or appointive posts in a political party or at any level of government. In the non-political area, however, the ACLU said that "defamatory attacks on individuals have little relation (if any at all) to the purposes for which freedom of speech is safeguarded. False statements involving character assassination do not forward the process of a marketplace of ideas." Thus, "in the absence of an overriding public interest," the right to sue for libel does not, in itself, involve a question of civil liberties. As for the Union's opposition to criminal prosecutions for libel, the policy statement pointed out that in a "disproportionate number" of these cases, the defamed person has been, or is, involved in politics. "The repressive effect of criminal libel laws could operate most strongly, therefore, in the very area in which it is vital that the greatest possible scope be given to free expression," the ACLU declared. In a similar vein, the Union explained its opposition to group libel laws aimed at preventing defamation of a group. Said the ACLU: "The type of statements sought to be proscribed by group libel laws, like defamatory statements about public officials, require protection because they frequently will pertain to social and political issues of public importance. While the statements may well be offensive and hateful, still it is better that they be openly expressed and accessible to challenge and debate."

The ACLU fought two free press issues all the way to state Supreme Courts. The Union lost a case in the Alabama Supreme Court, which upheld the constitutionality of a state law forbidding any form of electioneering on Election Day, thus reversing a lower court ruling that the statute violates guarantees of freedom of speech, press and due process of law. The Union had filed a friend-of-the-court brief on be-

half of James E. Mills, editor of the Birmingham *Post-Herald,* who was arrested in 1962 for writing an Election Day editorial urging his readers to support a proposition changing the form of local government. And the New Mexico Supreme Court reversed the criminal contempt of court conviction of Will Harrison, a columnist. Harrison was convicted for intimating that a former District Attorney got favored treatment from a lower court in a vehicular manslaughter case. The New Mexico CLU argued before the state Supreme Court that Harrison's conviction violated his right to freedom of the press under the First and Fourteenth Amendment, an argument which the high court agreed with.

A federal judge in Nashville, Tenn. invalidated the state Senate's resolution which barred reporters of the *Tennessean* from the Senate floor as a violation of the First and Fourteenth Amendments. The resolution grew out of fracas during which a reporter from the paper refused to leave a committee hearing when its proceedings were to be conducted in a secret session.

Other Issues

The battle continued between reporters, backed by a House government information subcommittee, and the Executive Branch. The subcommittee held hearings on a bill supported by the ACLU allowing anyone who asks to see most records of the federal government. The bill was opposed by Administration officials, who said that while they appreciate the public's right to know, the situation was too complicated to be resolved by a set of rules. Meanwhile, the American Society of Newspaper Editors again singled out a favorite target, the Pentagon, for allegedly "managing" the news. "It has not been an encouraging year for freedom of information," the chairman of an ASNE committee declared. On the local level, the public's right to know was enlarged in Milwaukee and New York. A Milwaukee judge ordered the police chief to make departmental administrative bulletins available to the press and public, and an appellate court in New York City ruled that Criminal Court clerks must open filed records for public inspection unless the papers were sealed by specific court order or statute.

In other actions by ACLU affiliates:

¶ The ACLU of Southern California helped win a ruling entitling a reporter to use a tape recorder at a public hearing.

¶ The NYCLU won the dismissal of charges of peddling without a license brought by three men who were selling a magazine published by LeMar, an organization espousing the legalization of marijuana.

¶ Two Houston newspapers asked the ACLU to investigate the public information polices of the National Aeronautics and Space Administration, following a charge by the papers that NASA shrouded its activities in unwarranted secrecy.

Academic Freedom

Loyalty and Security

Persistent efforts over the years by the ACLU, the nation's leading colleges and other organizations opposed to sworn affidavits and disclaimer oaths required of teachers and students in federal education programs continued to bring encouraging results. In 1962, a vigorous campaign knocked out the mandatory disclaimer affidavit from the National Defense Education Act. Pursuing the issue, Senators Joseph S. Clark of Pennsylvania and Robert F. Kennedy of New York introduced a bill to eliminate remaining loyalty provisions from the NDEA: the oath of allegiance, the provision making it a crime for anyone belonging to any organization registered or ordered to register as subversive under the 1950 Subversive Activities Control Act to apply for student aid, and to disclose any convictions for offenses more serious than traffic violations. A bill to eliminate the allegiance oath and past criminal record section, introduced by Congressmen Ogden Reid of New York, passed a House Education subcommittee, with the help of testimony from U.S. Commissioner of Education Francis Keppel, who favored repeal of the "loyalty" provisions.

Meanwhile, in the states, the ACLU continued the campaign to eliminate state-wide loyalty oaths for teachers in Georgia, New York, Idaho, California and Rhode Island.

The Georgia attack was launched by 165 professors at 13 institutions by the Georgia Conference of the American Association of University Professors, in cooperation with the ACLU of Georgia and the national AAUP and ACLU. A complaint was filed with a Federal District Court in Atlanta to prevent state officials from firing or refusing to hire professors who will not subscribe to the controversial oaths on the ground that they are unconstitutional abridgements of the rights of free speech, thought, belief and conscience protected by the First and Fourteenth Amendments.

The first oath attacked in the complaint was adopted in 1935. It declares that each teacher, from the elementary to the university level, will annually affirm he will "refrain from directly or indirectly subscribing to or teaching any theory of government or economics or of social relations which is inconsistent with the fundamental principles of patriotism and high ideals of Americanism." In 1949 the Georgia legislature evidently came to the conclusion that the 1935 oath had too many loopholes; it passed an oath requiring every state employe to swear he is neither a member nor a supporter of the Communist Party. Still a third statute under attack was passed in 1953. It is a security questionnaire requiring every state employe, as a condition of employment, to list all groups of which he is, or was, a member and to disclose his own membership and that of his parents, children and other relatives in a

list of 250 so-called subversive organizations. The 1935 and 1949 oaths were condemned in the complaint as violations of the Fourteenth Amendment because they provide "no ascertainable standard of conduct which is susceptible of objective measurement, and are so vague and uncertain that men of common intelligence are required, at their peril, to guess at its meaning." This standard had been applied by the U.S. Supreme Court in voiding state loyalty oaths in Florida and Washington in 1961 and 1964 — cases in which ACLU affiliates played a vital role The 1953 catch-all questionnaire was attacked in the complaint as unconstitutional under the due process clause of the Fourteenth Amendment, and as having no possible bearing upon a teacher's professional competence.

Shortly after the original complaint was filed the Georgia Superintendent of Schools modified the 1935 oath, removing some of the objectional phrases. Subsequently the faculty members amended their complaint to say that they did not object to taking a positive oath of allegiance to the Constitution, and forswearing membership in the Communist Party. A special three-judge federal court then ruled that the teachers may be required to take the positive oath and swear non-Communist Party membership, but held the 1935 and 1949 statutes unconstitutional on grounds of vagueness.

The test case in New York State, brought by five faculty members at the State University branch in Buffalo, moved a step forward when a special three-judge federal court agreed to hear arguments against the loyalty oath and the companion statutes raised by the ACLU and the AAUP in a joint friend-of-the-court brief. The brief contended that the oaths and the statutes raised serious constitutional issues because of their breadth, vagueness and limitations on a teacher's freedom of speech and association. Soon after it was decided that the special federal panel would hear the case, the president of the State University in Buffalo announced that no future employes would have to sign the oath. Announcing an end to use of the beleagured Feinberg Law certificate, the educator said that henceforth the university official who appoints a faculty members will be responsible for determining his qualifications.

Long opposed by the ACLU, the Idaho state loyalty oath statute was set aside by a three-judge Federal court which held that the absence of a formal hearing for a public employe refusing to take the oath violates the due process procedures of the Fourteenth Amendment. The panel said the hearing was required prior to dismissal "in order to determine the nature and quality of an individual's membership, present or past, in a 'party or organization' proscribed by the statute." The court did not agree, however, with the ACLU's contention that the statute was also void on the grounds of its vague language.

Vague language was also an issue in a new legal challenge of California's Levering Act loyalty oath launched by the ACLU of Northern

California. The affiliate filed a suit on behalf of William and Rita Mack, two ex-Communist school teachers who resigned from the Party in 1957. When the Macks took the oath in 1958 they did not disclose their former membership because the statute does not mention the Communist Party. They said they believed in good faith that as far as they knew during their period of membership, the Communist Party did not advocate the violent overthrow of the government. The state Board of Education ruled they had signed false loyalty oaths since all Party members must know that it advocates the violent overthrow of the government. It is precisely this verbal confusion and unconstitutional vagueness that the ACLU affiliate says has made the Levering Act a trap for the unwary and so broad as to inhibit activities protected by the First Amendment. If the Act means by "advocacy" the abstract notion that in some circumstances a governmental unit should be overthrown by violence, then the oath is an unconstitutional infringement of political freedom under the First Amendment. If the oath means incitement of immediate violent overthrow it should say so, the ACLU of Northern California declared.

Those who insist on loyalty oaths will agree, if pressed, that as security measures they are virtually useless. The real issue, argue civil libertarians, is the use of the oaths to penalize a teacher's private beliefs, even when they are not manifest in the classroom. Such was the case, for example, when the ACLU of Southern California came to the defense of Wendell Phillips, a Fullerton Junior College teacher who was finally upheld by the state Supreme Court in his refusal to answer questions put under the Dilworth and Levering oath acts. Other ACLU affiliates also were active, with conspicuous success, in opposing loyalty oaths for public school teachers. Following protests by affiliates in Rhode Island, Detroit and Philadelphia, boards of education dropped requirements that teachers answer questions about their political beliefs and associations.

A pro-Vietcong professor of American history at Rutgers University became the center of an academic freedom battle. His right to his opinions was endorsed by the university's Board of Governors and New Jersey Governor Richard J. Hughes, acting on the assurance that the political viewpoint expressed during a "teach in" on Vietnam was not carried into the classroom. Rutgers' defense of academic freedom was applauded by the ACLU of New Jersey, though the affiliate strongly deplored the fact that the issue quickly became a political football in New Jersey's gubernatorial campaign.

Other Faculty Issues

The U.S. Supreme Court ordered the Supreme Court of Alaska to reconsider the dismissals of two Seward teachers fired for "immorality" after they criticized the local school board and superintendent. "Immorality" may be an extreme accusation, but penalizing teachers for

criticizing their superiors is a somewhat risky business nevertheless. The Illinois Division of the ACLU, for example, protested the dismissal of a science teacher who published his unflattering opinion of school policies. And the ACLU came to the defense of a Georgetown University assistant professor of English who was notified he was fired after four years of service, and after he published three magazine articles deploring the university's failure to stimulate student concern for civil rights, to teach the Papal social encyclicals, and criticised Catholic-run colleges for giving lay professors too little say in campus policies.

A similar case — on a bigger scale — arose over protests at Paterson State College in Wayne, N.J. that the school restricted social, religious and political freedom on campus. Seven students and two professors were dismissed over the protests; the students were later reinstated but the professors were not. The uproar prompted the ACLU of New Jersey to conduct a six-month inquiry into the situation, and it concluded that "the spirit of repression and reprisal" were rife on the campus. The affiliate urged the state Commissioner of Education to open an investigation of the "inexperienced and thin-skinned" college administration, but the Commissioner rejected the request. The state college argued that since the professors did not have tenure, the college was free not to renew their contracts without giving reasons, although it claimed that the teachers' involvement in protest was not the basis for its action. As the Commissioner of Education is expected to turn down the professors' appeal, the issue will then go to the courts, with the support of the ACLU of New Jersey. Mere unorthodoxy can also be grounds for dismissal of a teacher, as the Iowa CLU discovered. The affiliate defended a West Des Moines high school English teacher, whose license was not renewed, chiefly on the grounds that his methods were unconventional.

Student Rights

The most explosive protest over student political rights in years shattered the Berkeley campus of the University of California, and echoed on campuses across the country. "The students are restless" was the general concensus, but to the credit of college administrators, "anti-subversive" moves by over-zealous legislatures were successfully rebuffed at a number of schools.

The uproar at Berkeley was well-organized, widely supported and deliberately disruptive, using civil disobedience tactics some students had learned in the civil rights movement. The highpoint was the mass invasion of the university administration building during an all-night sit-in, for which almost 600 persons were arrested for trespassing, resisting arrest, and failure to disperse an unlawfully assembly. The ACLU of Northern California filed a friend-of-the-court brief on behalf of the students charging that the unlawful assembly accusation was

unconstitutionally vague. The basic issue, however, was the university administration's rules curbing student political activity, principally the right to punish students for off-campus social and political protests that the courts may judge illegal. The ACLU backed the students, who in turn were supported by the Berkeley Academic Senate after a stormy session. "The current controversy," the Union said, urging the California Regents to adopt the faculty's peace proposals, "raises a major challenge to academic freedom. The right of students to freely express their political opinions in the same manner as other citizens is an integral part of academic freedom. The spirit of free inquiry, the core of an educational institution's function, cannot prevail if students' political activity is hobbled." The Regents did not accept the faculty proposal, although it partially met the student demands.

Praising the spirit of free inquiry apparent in Nevada, the ACLU applauded Governor Grant Sawyer for refusing to ratify a so-called anti-riot law believed designed to restrict student political activity. "I cannot grant my approval to legislation which might, by extension or broad interpretation, result in thought control," he said. In South Carolina, Wisconsin and New Hampshire, legislatures debated and defeated proposals to ban Communist speakers on state-college campuses. A North Carolina law which prohibits Communists and persons who invoke the Fifth Amendment from using the facilities of public colleges was condemned by the state Board of Higher Education; the law, hastily passed near the close of the 1963 legislative session, threatened the accreditation of state-supported colleges because the legislators, in effect, usurped the authority of school trustees. After a lengthy controversy the legislature revised the law to give control of speakers to the colleges' board of trustees. Such laws or regulations, regardless of who promulgates them, are unconstitutional in the opinion of the ACLU. In opposing a California law which banned Communist speakers on state-run campuses (subsequently voided by the California Supreme Court) the Union argued, among other grounds, that under First Amendment protections of free speech and association, such statutes are unconstitutional unless the restrictions are clearly justified by a "specific, clear and present danger."

A similar argument was raised by member-students of the ACLU at Ohio State University in challenging a speakers ban in effect since 1962 at the insistence of the university's trustees. The faculty and administration requested permission to end the ban but the trustees initially refused. Then, following months of turmoil, the trustees reversed their stand. Henceforth, "recognized" student groups may invite speakers of their choice, merely by getting the approval of their faculty adviser, rather than (as previously), of the university administration.

In other actions by the Union and its affiliates defending the right of students to hear speakers of their choice:

¶ The ACLU sharply questioned a policy at New Paltz (N.Y.) State

College whereby student groups must allow for both sides of a partisan issue to be heard in the course of a scheduled series of meetings. The Union said the restriction fosters an atmosphere of timidity which would make students less willing to invite spokesmen for unpopular causes. "College students do not lead insulated lives," the Union observed. "In the natural course of events they read and hear opinions of varying political casts."

¶ The NYCLU castigated Brooklyn College president Harry D. Gideonse for "efforts to smear student groups at the college with the Communist label." The smear followed a student protest to win greater political freedom for on-campus activities.

¶ The ACLU of New Mexico launched an investigation of the state university's speaker policy when Billy James Hargis, an extreme right-winger, was refused permission to speak on the campus. Subsequently the affiliate said that the policy which requires speakers to be sponsored by recognized student organizations is reasonable. Under this policy George Lincoln Rockwell addressed a student group.

¶ An all-out effort by the Greater Philadelphia Branch of the ACLU, including a letter to each state representative, helped kill an American Legion-sponsored bill to bar Communists and members of "Communist-fronts" from speaking at state-aided colleges and universities.

¶ The case of three Young Socialist Alliance members convicted under the Indiana anti-sedition law continued its journey in the state courts *(see last year's Annual Report, p. 33)*. In the latest episode the state Supreme Court upheld the law, centering its decision on the constitutionality of the state, not whether the three former Indiana University students were actually guilty of the charge. The Indiana CLU filed a friend-of-the-court brief raising several arguments against the law, including the claim that federal law superceded state law in the sensitive area of "subversive" activity.

¶ The Maryland Branch of the ACLU protested a "witch hunt" against civil rights leader Bayard Rustin, invited to address a training school for Maryland law officers at the University of Maryland, but who refused to sign the loyalty oath required of speakers at the state-supported institution.

Other affiliates acted on behalf of students' rights, political and otherwise:

¶ The Texas CLU came to the aid of a college student who charged that he was expelled because of his political activities. The college was recently taken into the state university's system and has since refused the student's request for pre-admission forms.

¶ The Illinois Division investigated the case of Roosevelt University students, who were suspended after publishing a premature report on the university president's resigation.

¶ The ACLU of Northern California successfully intervened on behalf of a student who was penalized for having been suspected of, but not proved, to have committed thefts on campus. He denied the charge and the college took no action against him.

Issues Raised by the Integration Conflict

The Kansas ACLU sent a representative to the State Attorney General to discuss harassment by a local county attorney of Kansas University students who demonstrated on-campus against discrimination in fraternities, off-campus housing, and assignment of student teachers. The affiliate sought to have the Attorney General use his authority to insure that the students' right to protest would be observed unhampered by the local county attorney. Months of sporadic picketing, which sometimes turned violent, demanded that Girard College, a 117-year-old privately endowed boarding school for orphaned boys in Philadelphia, end its all-white admissions policy. The restriction was set down in the will of the founder, but the Greater Philadelphia Branch of the ACLU, together with the NAACP, urged the trustees to break the will with court permission, as other institutions have done. The Indiana CLU protested a motion of the Indianapolis school board to prohibit school children from participating in peaceful demonstrations and to deny their right to address the board on its failure to establish a clear cut policy regarding further desegregation of the school system.

In the South, the ACLU'S Southern Regional Office helped draft a statement greatly liberalizing student rights at all-Negro Alabama State College. The statement was part of an agreement under which nine students who had been suspended after civil rights demonstration on the campus were reinstated; they went into court seeking an order for their reinstatement but the case was dropped. The Louisiana CLU obtained the reinstatement of a white student at Tulane who was expelled for bringing Negro guests into the Student Union; in this case, too, reinstatement ended a pending court suit.

Religion

CHURCH AND STATE: EDUCATION

Aid to Parochial Schools

In several memorandums to ACLU affiliates the Union expressed its concern that the billions of dollars in federal funds allocated under the Economic Opportunity Act and the Education Act should be spent in accordance with the constitutional separation between church and state. The variety of programs in both federal projects, the Union warned, raises "a very real danger of unconstitutional practices developing, and a gradual and almost imperceptible erosion of some principles of the

Constitution. . . . We are not suggesting that the ACLU affiliate function should be to police the meticulous implementation of (government) regulations," the ACLU said. "But we think there is a real danger . . . and that it will require a lot of judgement and sometimes difficult detective work to find and decide which practices warrant our greatest energies in the effort to maintain those Constitutional principles."

Thus, the Greater Philadelphia affiliate is scrutinizing a Neighborhood Youth Corps project which furnishes federally paid workers to serve cafeterias and other institutional programs of parochial schools, and may be engaging in outright religious discrimination in screening candidates in the program. The New York CLU and the ACLU deplored the degree of involvement by religious groups in Project Headstart, designed to operate guidance centers for more than 500,000 preschool children throughout the country. Affiliates in Detroit, Chicago, Pittsburgh and New Haven are keeping a close watch on community action programs which have contracted part of their work to parochial schools. Even though legislation establishing federally supported anti-poverty programs and education facilities have clauses prohibiting the spending of government funds for religious or sectarian programs, the ACLU said, "those administering the program may not be people who are very much aware of constitutional issues, and they may tend to use their usual methods of working."

Prior to issuing its memorandums to be on the alert, the ACLU made several objections to the Administration's education bill. Although the measure was modified in the House to satisfy some doubts raised previously by the Union, several changes or clarifications still were sought. Among them were: (1) elimination of the possibility that religious school representatives, serving as such, might be designated to supervise the administration of supplementary educational centers; (2) elimination of the requirement that benefited students attend a "non-profit" school, lest Congress' intention be construed to mean that private schools rather then their students were intended to benefit from the program; (3) limiting "loans" of educational materials to a specific time; (4) clarifying overly broad authorizations of publicly financed programs within parochial schools; (5) providing specific guarantees against any form of segregation of religious or private school pupils involved in dual enrollment programs; (6) the elimination of text book aids; and, most importantly, (7) the addition of "provision for judicial review . . . as a safeguard against religious discrimination."

Shared Time

Announcement of the Union's position on the legislation coincided with the conclusion of a year-long review by the Union of shared-time plans, a widely-discussed proposal that aims to avoid the thorny question of church-state separation. The Union concluded that the

programs "present grave constitutional and civil liberties problems."

Going beyond the immediate proposals before Congress, the Union noted that some shared-time plans may not present substantial constitutional issues. On the other hand, some plans call for the enrollment of sectarian school pupils as part time students in public schools and, to satisfy compulsory state education requirements, develop combined public and religious school criteria. Such plans, the ACLU said, violate the provision of the First Amendment which says the government shall not "establish" a religion. The establishment clause is infringed "because of the substantial benefit such programs confer on sectarian schools and because of the joint involvement by secular and church authorities in decision-making on matters affecting religion," the policy statement declared. The Union said that while the U.S. Supreme Court's 1947 *Everson* decision narrowly upheld the payment of funds directly to parents for transporting parochial school students, the Court also noted: "Neither a state nor the federal government can . . . pass laws which aid one religion, aid all religions, or prefer one religion over another. . . . No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever from they may adopt to teach or practice religion." Pointing to this statement, the ACLU said that under many shared-time programs "tax money is no longer being used incidentally for the child's protection and health, but is instead being utilized to support academic programs for the children receiving their basic education in church schools."

The Union statement objected to the joint decision-making potentially involved in shared time arrangements, ranging from the choice of instructors and teaching materials to the number of hours to be devoted to a course. Such procedures, said the ACLU, violate the establishment clause of the First Amendment, which was drafted "by men of the 18th century who had vivid recollections of bitter religious conflicts. Its chief purpose was to enable the United States to avoid the friction and strife that inevitably accompany the fusion of government and religion."

An even more flagrant disregard for the wall between church and states is illustrated by tax-financed bus transportation for parochial and private school children, which ACLU affiliates across the country are testing in the courts and fighting in the legislatures. The Ohio CLU brought a prompt court challenge of a school bus law underwriting public transportation costs for private and parochial school children. "Calling the bill a safety measure doesn't make it one," the affiliate declared. "This is only an attempt to circumvent the constitutional separation of church and state and it doesn't do it." The impending Ohio test was the latest of several court challenges raised against similar legislation by ACLU affiliates in Indiana, Michigan, New Jersey and Pennsylvania. In addition, affiliates in Missouri and Minnesota opposed

such proposed legislation that did not pass. The Union disagrees with the U.S. Supreme Court ruling in *Everson* which upheld the constitutionality of direct payments to parents for costs incurred in sending their children to parochial schools on public transit buses. Moreover, it is arguing that specific provisions in many state constitutions are violated by present and proposed legislation. For example, bus transportation is not simply a form of welfare provision to the child, as some states claim, but is an aid to the school. It is not analogous to lunch and medical care, which a child must have, irrespective of whether or not he attends school, and which are truly welfare services which a state may help finance without engaging in aids to religious education.

The supply of textbooks to parochial schools and their pupils — another popular form of unconstitutional aid — was condemned by the ACLU and affiliates in New York and Rhode Island. The NYCLU opposed a law which enabled parochial school to "borrow" textbooks chosen from a list used by public schools and the Rhode Island Affiliate supported a test case brought by parents in Cranston challenging a 1963 textbook law. The Administration's education bill provides $100 million for library and textbook aid to public and parochial schools alike, but ACLU objection to such aid failed to win support.

The Courts

The U.S. Supreme Court's 1963 decision banning prayers and Bible reading in the public schools continued to provoke rearguard defiance in scattered communities, as it probably will for years to come. Nevertheless, other court decisions gradually widened enforcement of the high court's ruling.

The U.S. Court of Appeals for the Second Circuit, for example, held that kindergarten children could not recite nursery prayers during school time. At issue were prayers recited in a Queens, N.Y. class, among them: "God is great, God is good, and we thank Him for our food." And in the first ruling in Pennsylvania governing the distribution of Gideon Bibles in the schools, the Bucks County Court of Common Pleas ruled that such distribution violates the First Amendment's guarantees of church-state separation. "The net effect of our religious freedom Amendment," said the court, "was to take every form of propagation of religion out of the realm of things which could directly or indirectly be made public business. . . . Our Constitutional policy denies that the state can undertake or sustain (religious training, teaching or observance) in any form or degree." The plaintiffs who brought the successful action were represented by cooperating attorneys from the Greater Philadelphia Branch of the ACLU.

But while the high court's school prayer decision continued to win gradual acceptance among die-hard opponents, not all the Court's opponents remained silent. In a number of northern New Jersey towns,

for instance, blue and white banners proclaiming "One Nation Under God" have blossomed atop municipal flagpoles and buildings of lay religious groups and some veterans' organizations. The ACLU of New Jersey, while not regarding the display as a clear issue of church-state separation, considered the movement as inspired by "super-patriots" anxious to assault the U.S. Supreme Court. It strongly objected to the use of tax funds and public grounds to advertise defiance of the tribunal's ruling deplored "this disrespect for the law."

The phrase "One Nation Under God" in the Pledge of Allegiance recited by school children was the source of a suit brought by the Freethinkers of America. The words "under God" were challenged as a violation of guarantees of religious freedom protected by the First Amendment, but the U.S. Supreme Court refused to review a New York state ruling upholding the use of the words as a patriotic, not religious exercise.

In the first round of a major case testing the constitutionality of tax aid to religious institutions, a Maryland county circuit court held that state funds to help finance science, dormitory and dining facilities at four church-affiliated colleges did not violate church-state provisions of the First Amendment. The test, said the court, must be whether "the legislative purpose or the primary effect of the enactment advances or suppresses religion." If the legislation did not it is valid, said the court. Otherwise, it is not valid. At the same time, however, the court confessed: "It must be admitted that regardless of the established law of separation of religion and government this has never been completely accomplished and would be practically impossible."

Aid to Higher Education

Though the question of federal aid to colleges and universities, as such, is not a matter of civil liberties concern, the ACLU does have a concern over whether the entirely worthwhile objective of strengthening higher education will be compromised by ignoring the constitutional problems arising out of federal aid to some church-related institutions. With this thought in mind, and considering the Administration's Higher Education Bill, the ACLU issued a policy statement outlining criteria under which federal aid would and would not violate the First Amendment's ban against "an establishment of religion or prohibiting the free exercise thereof. . . ."

The statement pointed out that the mere affiliation of an educational institution with a religious group does not necessarily bar it from receiving public funds. Rather, the institution's range of activities must be examined before such a decision can be made. The Union set forth five practices, any of which would be reason for denying a college or university public assistance: (1) requiring faculty or students to belong to a religious organization or to subscribe to any belief or opinion as a condition of employment, admission or graduation; [Divinity schools of insti-

tutions are exempt from these requirements] (2) requiring a student to attend religious services or take part in religious observances; (3) requiring a student to attend classes designed to foster religion, except for objectively presented courses in, for example, comparative religion; (4) subjecting a student to discipline solely on religious grounds; (5) conducting educational activities in places that display religious symbols or pictures. Among the forms of public aid barred to institutions engaging in any such practices the ACLU statement cited federal or state grants or loans to construct buildings, buy equipment or raise teacher salaries.

At the same time, the ACLU found no objection on civil liberties grounds (while expressing no opinion as to desirability from a policy point of view) to the use of public funds for specific non-religious research projects required by the national interest. Nor did the Union oppose public scholarships and fellowships to aid students attending any accredited institution of higher learning, provided the awards are made on the basis of academic ability or under such programs as the G.I. Bill. In subsequent testimony before a Senate Education subcommittee, the ACLU relied heavily on the policy statement in raising several objections to the Higher Education Bill, mainly on the grounds that it "does not attempt to draw any distinctions that should be constitutionally drawn" between some religious educational institutions and others.

Religious Observance and Other Issues

The ACLU of Pennsylvania was spared the trouble of pressing a court test of a course introduced by the Cornwall-Lebanon school system which ostensibly studied "the literary and historic qualities" of the Bible *(see last year's Annual Report, p. 36)*. The state Board of Education retained five scholars to examine the course, and on their recommendation decided it was neither literary, historic, or satisfied "reasonable educational standards." A more direct challenge to the U.S. Supreme Court's ban on prayers in the public schools was made by school officials in Fairfax County, Va. and De Kalb, Ill. It was opposed in both communities by ACLU affiliates. The National Capital Area CLU criticized without success lunch period prayers, a practice ruled unconstitutional by a Federal District Court in Michigan; the Illinois Divison also criticized prayers during kindergarten snack time as further evidence of "widespread noncompliance with Supreme Court decisions."

Disputes over recitation of the Pledge of Allegiance to the flag involved several Union affiliates. The ACLU of Southern California defended a Santa Barbara high school boy who refused to take the pledge on the grounds it would violate his agnostic beliefs. A Superior Court judge agreed, ruling that even though some people might think the boy "odd or even sacrilegious . . . we must stand for his own right to think

as he will, so long as his way of life . . . (does) not interfere with the beliefs of others." Protests by the Minnesota Branch brought the cancellation of a compulsory pledge by graduating teachers in state institutions to teach reverence for God in the classroom. And the ACLU of Northern California won the re-hiring of a Sonoma county school teacher who had refused to lead the flag salute on religious grounds.

CHURCH AND STATE: THE GENERAL PUBLIC

Problems of Conscience

Skirting the question of constitutionality, the U.S. Supreme Court nevertheless issued a significant decision when it exempted three men from military service who had been denied classification as conscientious objectors because of non-adherence to orthodox religious beliefs. The Court supported a broad interpretation of the test contained in the draft law: "Whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption."

The ACLU filed a friend-of-the-court brief on behalf of the three CO's, Daniel Andrew Seeger, Arno Sascha Jakobson and Forest Brett Peter. The brief claimed the law's definition of religious training and belief to be unconstitutional since it "creates a governmentally sanctioned form of religion and thus directly affronts the First Amendment." The ACLU did not question the constitutionality of confining exemption to religious grounds, but opposed the government's right to define the kind of religious beliefs that qualify. "Moreover," the ACLU declared, "its limitations only to those who meet the test of believing in a Supreme Being is a burden on the free exercise of those who believe in nontheistic and polytheistic religions."

In pausing to note its refusal to rule on the constitutionality of the draft exemption law, the high court said: "No party claims to be an atheist or attacks the statute on this ground. The question is not, therefore, one between theistic and atheistic beliefs. We do not deal with or intimate any decision on the situation in this case."

Blue Laws and Other Issues

The New York State Court of Appeals approved a broad interpretation of a Fair Sabbath Law which, in the opinion of one District Attorney, "seems to render valueless our Sabbath-closing laws." Previously the laws generally allowed a business to stay open on Sunday if it closed on Saturday, and it was operated by a family on the premises. But the court ruling held that limiting the interpretation to families was unjust dis-

crimination against a man who had no family, for example. It left open the question of how large a business could remain open on Sunday if a member of the family supervised his employes.

An atheist inmate of a California jail lost his plea to be transferred to a single cell where he would not be subjected to religious services. Jail officials offered to remove him temporarily during the Sunday services, but the ACLU of Northern California objected on the grounds that it would cause the prisoner to be singled out and subjected to possible harassment.

The city of Eugene, Ore. was divided by a controversy over a giant, concrete cross erected in a municipal park high above the city. At night it glows, lighting the dispute between citizens who want the cross to remain and a group who have pledged its removal, even if it means taking the case to the U.S. Supreme Court.

General Freedom of Speech and Association

RIGHT OF MOVEMENT

In a decision that departed from a recent trend expanding the rights of Americans to travel abroad freely *(see last year's Annual Report, pp. 42-43)*, the U.S. Supreme Court affirmed the authority of the Secretary of State to bar U.S. citizens from travel to unauthorized areas. The majority opinion held such authority was "constitutionally permissible. The fact that a liberty cannot be inhibited without due process of law does not mean that it can under no circumstances be inhibited." The case before the Court was brought by Louis Zemel of Connecticut who sought to visit Cuba as a tourist and to make himself "a better informed citizen." His two requests to make the trip were denied by the State Department. The ACLU contended in a friend-of-the-court brief that Zemel was thus deprived of the "liberty of personal movement protected by the First and Fifth Amendments, and no public interest is shown to justify the suppression of the constitutional right of personal travel to Cuba." The brief cited two previous passport decisions by the high court, *Kent* (1958) and *Aptheker* (1964), as indicating that the tribunal holds the constitutionally protected right of personal movement to be paramount in the absence of grave national emergencies.

The Supreme Court said that Zemel's case was different from these earlier cases, which involved the plaintiffs' political beliefs. The Zemel ruling, the majority said, was based on "foreign policy considerations affecting all citizens" and was not used to penalize individuals for their beliefs. The Court said the Passport Act of 1926, which grants the Secretary of State the right to issue passports, was worded broadly enough to permit the impositions of area restrictions. And it cited earlier restrictions to illustrate the point: Belgium in 1915 because of a famine;

Ethiopia in 1935 because of war; China in 1937 because of unrest. In the case of Cuba, said the majority, restrictions were justifiable because the Castro government seeks to export revolution through travelers. A minority opinion (one of three) written by Justice William O. Douglas challenged the Court's reasoning. "The First Amendment presupposes a mature people, not afraid of ideas," he said, arguing that Americans should be allowed to travel freely to Communist countries in order to understand them.

Prior to the high court decision in the Zemel case, the ACLU intervened successfully to obtain a passport for a New York City student, Frances Mary Kissling. She had been refused a passport by the State Department unless she executed an affidavit promising not to travel to Cuba, but when the Union noted the absence of any statutory authority for such a pre-condition, and the denial of a hearing to protest the action, the State Department granted a passport. Obviously, however, even though she had the passport, Miss Kissling would not be allowed to visit Cuba under the limitations upheld in the *Zemel* case.

Acknowledging a charge by the ACLU, the State Department instructed all its passport offices to use only newly-issued application and renewal forms and cease using old forms that ask for information that the Union said was "unconstitutionally irrelevant." The irrelevancies were questions pertaining to membership in the Communist Party and to travel and residence abroad by naturalized citizens. Both arguments had been previously upheld by the U.S. Supreme Court in two separate cases supported by the ACLU in friend-of-the-court briefs.

RIGHT TO FRANCHISE

Congress

By the relatively narrow margin of seven votes the Senate defeated a proposed constitutional amendment that would have upset the landmark "one-man, one-vote" decision of the U.S. Supreme Court. The Senate roll-call ballot, which fell short of the two-thirds vote necessary to approve an amendment to the Constitution (plus a two-thirds vote in the House and ratification by three-fourths of the states), revived the battle last year to set aside the high court's ruling.

As it did then, the ACLU printed and circulated literature, lobbied actively through its affiliates locally and nationally, and stimulated other groups to action against the proposed amendment sponsored by Senate Minority Leader Everett Dirksen. The ACLU's basic position, outlined in testimony, pointed out that every state that joined the Union during the century after the original 13 formed the United States, entered with a constitution providing for representation in both houses of its legislature based principally upon population. The ACLU pointed out that

the U.S. Supreme Court's insistence that each state redistrict itself so as to ensure an equal number of voters in each electoral district was based on the provision of the Fourteenth Amendment forbidding the states to deny any person "the equal protection of the laws." The Amendment was ratified in 1868 and only after that time, the ACLU declared, "the states began the movement away from representation in accordance with population — sometimes by a change in formula and sometimes simply by failing to live up to their own constitutional requirements." By 1962, when the high court made its first ruling on equal representation, the movement had reached a peak. "Malapportionment was king nearly everywhere."

The Union specifically criticized a proposed constitutional amendment, endorsed by the American Bar Association, to the effect that one house of a bicameral legislature might be apportioned by factors other than population if the plan is approved by a majority of voters. "To urge that the popular majority should be restrained from fulfilling its goals because of the objections of economic or social-interest minority groups is to confuse high principles with cynical expediency," the ACLU said. "Nothing is more fundamental to representative government than the rules governing the electoral process itself. No reason consistent with the ideals of equality and majority — or minorities' — rule has been advanced for not effectuating the equal-population principle."

Summing up, the ACLU said the high court's decisions "have made it possible for state legislatures to return to their rightfully proud position in which they can voice a confident consensus of state opinion that will represent, again as once before, the wishes of the majority."

The Courts and the States

Sometimes voluntarily, and sometimes prodded by Federal District Courts, state legislatures continued the job of reapportioning themselves to conform with the U.S. Supreme Court decision. In several states — New York, California, Illinois and Idaho, among others — the first attempt at redistricting was not good enough, and the high court sent the plans back to the lower courts for reapportionment that would follow its one-man, one-vote doctrine. In these and other states where legislatures were slow to apply the rule, ACLU affiliates joined the effort to hurry them along into compliance. The Indiana CLU won a significant victory in its reapportionment test. The U.S. Supreme Court struck down as unreasonable a provision of the Texas constitution which automatically denies the right to vote in local elections to servicemen who move into the state after entering military service; the high court upheld a Maryland one-year residency eligibility to vote in presidential elections in a brief order, without an opinion. The rule had been challenged by the ACLU and the National Capital Area affiliate as having "no reason-

able relation" to the process of choosing the state's Presidential electors. The argument said that such residency requirements in 29 states had prevented at least 3,700,000 persons from casting their ballot in Presidential elections — the number of people who move from one state to another each year.

RIGHT OF ASSEMBLY IN PUBLIC FACILITIES

The long and widely-publicized conflict over the use of the Indianapolis World War Memorial by controversial organizations flared anew with the filing of a court suit seeking to prevent the Indiana War Memorials Commission to change its rules so that they are consistent with the free use of a public building. A state court held that no group which hadn't already met there could have access to the building, and that the Commission didn't have the authority to decide who could use the building; this complicated decision was altered by an appelate court which ruled that the Commission did have the authority to decide how the building should be used. Since this court decision the Commission has said that it will change its rules. The Indiana CLU was not involved in the suit, although it has not been permitted to hold meetings there under a temporary restraining order in effect since 1963. Actually, the battle to meet in the building dates to 1953, when the ICLU cancelled its founding meeting at the Memorial after protests by the American Legion that the ACLU defends Communists and because the Union's founder and long-time director, Roger Baldwin, spent a year in jail as a conscientious objector in World War I. During a recent visit to Indianapolis, Baldwin noted that a plaque in the War Memorial calls for "Liberty Under Law" and commented: "If anyone believes that, it's the American Civil Liberties Union." While the controversy continued in Indianapolis, a similar debate ended, more happily, in Syracuse. The Upstate Division of the New York State ACLU successfully protested the inclusion of a loyalty oath in contracts of all performing groups and lecturers using the Syracuse War Memorial.

Though the ACLU has no sympathy with the ideologies of the John Birch Society, the National Renaissance Party or the Ku Klux Klan, the Union came to the defense of these groups after they were denied the use of public facilities in violation of constitutional guarantees of freedom of expression.

The Maryland Branch of the ACLU offered to challenge those sections of a state law under which the Birchers were refused the right to meet in public schools, but the society did not press the issue. The state Attorney General made the ruling, deciding that since the society was a "politically partisan action group" that had polled less than 10 per cent of the vote, it was not eligible under the law to meet in a public school. The affiliate said that "regardless of the alleged statutory authority,

the ruling — and perhaps the statute also — violates the First and Fourteenth Amendments of the U.S. Constitution." The National Renaissance Party was caught up in a squabble with the Orange County (N.Y.) Board of Supervisors, which refused to allow the NRP to hold a public meeting in the Newburgh County court house. The reasons indicated were that the NRP was "fascist" and "subversive." The ACLU filed suit pointed out that the court house had been used by other political parties, and to deny its use by the NRP constituted illegal prior censorship, silencing discussion of public issues, and abuse of discretionary power. The case was not pressed because the NRP dropped the suit. As for the Klan, the Georgia CLU protested to the Mayor of Marietta his refusal to allow the Klan to meet in the town square. After the affiliate's position was made public, the Mayor said he would offer the KKK equally advantageous room to meet elsewhere. The response was a change of heart, since originally the refusal was based on the Klan being "a disruptive element in the community."

In other actions by ACLU affiliates:

¶ The ACLU of Washington State helped win the acquittal of 40 students at Western Washington State College who were arrested for parading without a license during a peace protest demonstration.

¶ The New York CLU won dismissal of charges against a civil rights speaker who was arrested in Harlem during a post-riot ban on meetings in the area.

¶ The ACLU of Northern California successfully defended a visiting Chicago professor, Dale Pontius, arrested in San Francisco for failing to disperse during a Vietnam street corner protest meeting.

¶ The Colorado Branch of the ACLU appealed the loitering conviction of a Denver minister speaking on a soapbox to the state Supreme Court, which reversed the verdict on the grounds that the speaker did not obstruct pedestrian traffic.

¶ Following a protest by the ACLU of Southern California federal judges in Los Angeles modified an order banning all demonstrations around the federal building.

STATE AND LOCAL CONTROLS

Birth Control

In a historic decision that establishes a new constitutional "right of privacy" the U.S. Supreme Court struck down Connecticut's 1879 birth control law. The law forbids the use of contraceptives by anyone, including married couples. The reasoning behind the high court's sweeping ruling was in line with the contention of the ACLU, as outlined in a friend-of-the-court brief, that the statute violated the right to privacy guaranteed by the due process clause of the Fourteenth Amendment and

bears no reasonable relation to a proper legislative purpose. "Connecticut presumes to regulate the conduct of its citizens by notifying them that (it will declare) sexual intercourse between spouses . . . to be criminal unless they abstain from the use of (such) devices," the brief said. Though the ostensible purpose of the law is to regulate morality, ". . . it is perfectly obvious that a statute whose terms forbid even married couples to use contraceptive devices has no bearing whatsover on morality."

The Supreme Court's majority opinion cited half a dozen constitutional amendments in supporting the view that the case before the tribunal "concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law which, in forbidding the use of contraceptives, rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive effect upon that relationship. . . . We deal with a right of privacy older than the Bill of Rights." Not all the seven members of the majority concurred on the applicable constitutional provisions to void the law, but all seven agreed that married couples have private rights that cannot be abridged in such a manner.

The case was decided on appeal by two leaders of the Connecticut Planned Parenthood League, which won the support of the ACLU in a previous, but inconclusive test of the law. For many years the Union maintained that state and federal laws which interfered with the dissemination of birth control information impaired freedom of speech and information protected by the First Amendment. Subsequently, the ACLU re-evaluated its policy and concluded that any prohibition against the prescription, sale or use of birth control articles was a serious violation of the due process clauses of the First and Fourteenth Amendments.

Job Rights

"The judgment of people on the basis of their individual ability and competence, not their political beliefs and associations, is a cardinal civil liberties principle." So said the ACLU in a policy statement defending the right of John Birch Society members to be policemen. The statement was prompted by demands in many communities to dismiss policemen who were Birchers on the grounds that the aims of the society were not compatible with the duties of public servants to protect citizens' constitutional rights, and preserving peace in the event of violence or racial tension. But, as the Union observed: "This is not the first time this question has arisen. From time to time membership in other organizations whose philosophy and program are regarded as opposed to democratic values was suggested as a disqualification for public employment — most notably members of the Communist Party and Catholic nuns who belong to religious orders should not be allowed to teach in public schools. The ACLU reaffirms now in the John Birch Society case the same civil liberties standard" it applied in the past — that "mere membership in any or-

ganization is not sufficient grounds for disqualification from employment. The right to associate for lawful purposes is a constitutionally protected right and no public servant should be barred from exercising it."

The Union noted that public officials have discretionary power to examine the suitability of police officers at all times, and certainly if information is received that *activity* as a member of the John Birch Society has interfered with the proper performance of a policeman's duties, further action may be warranted. "But the guiding standard for such inquiry should be conduct," the ACLU emphasized, "not mere membership."

The New York CLU launched a drive aimed at stopping the widespread practice of many employers who ask prospective employes whether they ever have been arrested. Such questioning raised as conditions for employment "is a pernicious evil which makes a mockery of our presumption that a person is innocent until proved guilty." The NYCLU did not object to questions about prior convictions, as distinct from mere arrests.

In actions involving the private rights of public employes, ACLU affiliates took these steps:

¶ A ruling that prohibits political activity by Lincoln Park firemen, policemen and their spouses was termed "clearly contrary" to the First Amendment by the Metropolitan Detroit Chapter, which pledged prompt action to test the policy.

¶ The Minnesota CLU backed the right of civil service employes to be delegates or alternates to political conventions.

¶ The ACLU of Northern California filed suit on behalf of an assistant district health officer who was fired for picketing during a civil rights demonstration. The affiliate also successfully defended a fireman who was suspended for 30 days for criticizing his department; the suspension was invalidated by a Superior Court.

¶ In reply to newspaper charges that two employes of the U.S. Geological Survey in the San Francisco area were prevented from making statements as private citizens about building hazards, the acting director of the agency told the ACLU the accusations were false. "The individual rights of our employes are fully recognized," he said. "The tradition of this bureau opposes censorship or infringement of these rights."

Other Issues

The ACLU of Washington State debated a policy statement on Indian rights. One position held that Indian treaty rights are property rights and hence do not pose civil liberties questions. The opposing view argued that since Indian treaty rights were interwoven with the survival of the group as an ethnic minority, Indian treaty rights should be defended by the affiliate. Finally a compromise was achieved in a policy

court to reverse its 1957 decision in the *Barenblatt* case, which upheld the constitutionality of the HUAC's mandate and declared that the nation's need to preserve internal security outweighed a person's First Amendment's rights, when the two needs conflicted. The ACLU petition further argued that the real purpose of the HUAC investigation was to break the union of which Gojack was then an officer (the United Electrical, Radio and Machine Workers of America) and to "exact compulsory disclosures of . . . political beliefs and affiliations" forbidden by the First Amendment.

House Un-American Activities Committee

While the three remaining contempt convictions were pending, the HUAC voted three new citations for contempt — the first since 1959. The targets were three persons who refused to answer questions before an executive session of the committee in connection with its inquiry of protests made to the State Department in 1963 when the government initially barred a Japanese professor from the U.S. for a series of peace meetings. The visa was later granted. The three witnesses were Mrs. Donna Allen of the Women's International League for Peace and Freedom; Russell Nixon, general manager of the *National Guardian;* and Mrs. Dagmar Wilson, a founder of Women Strike for Peace. They demanded an open hearing, arguing that their protest to the State Department was an expression of opinion protected by the First Amendment. After a brief trial the three were convicted. The ACLU supported their position that the HUAC's inquiry infringed on their right of free speech and association.

Though the House Un-American Activities Committee has been responsible for only two new laws during its 27-year history, the Committee received a record appropriation of $370,000 which supposedly was intended to serve a legislative purpose. The act of lavishness was mitigated somewhat by the fact that the largest show of opposition in years was made by members of the House against the HUAC. Sixty-four Congressmen voted (or were paired) to recommit the appropriation request for public hearings, and since only 20 had voted similarly during its last request for funds in 1963, the vote was regarded as major progress toward curbing, and hopefully eventually abolishing, the HUAC.

A few days before the House vote the ACLU strongly opposed a proposed investigation of the Ku Klux Klan and other ultra-right extremist groups by the HUAC. A letter to the HUAC chairman noted that while the record of such groups shows that they go past the bounds of free speech and association to actual violence and harassment, "such activities fall into the category of violation of criminal law, which the Department of Justice has the clear authority to investigate and prosecute. And if any questions arise as to the Department's adequate enforcement of these laws, the HUAC is certainly not the unit to review the issue. . . . This

statement: ". . . ACLU may be called upon from time to time to secure protection for such Indian rights, including rights founded on treaty and rooted in property concepts. Where it is not hostile to basic Bill of Rights principles, the ACLU should favor the concept of Indian self-determination. ACLU involvement in Indian right issues should be on a case-to-case basis within the principle stated above."

ACLU affiliates took actions on a wide variety of state and local limits on individual freedom, ranging from the ACLU of Pennsylvania's opposition to a bill which would remove children from unwed mothers, and a warning against midnight check-ups on welfare clients issued by the Illinois Division to criticism of a bill by the Colorado Branch that would force drivers to submit to a blood test for alcohol on the theory that they gave their "implied consent" to the test simply by driving on the roads.

In other actions by ACLU affiliates:

¶ The Rhode Island CLU presented a 10-point statement to a Constitutional Convention which included establishing the right of any citizen to sue the state for an alleged wrong — only possible now by special act of the legislature.

¶ The ACLU of Southern California filed a brief supporting a member of the American Nazi Party accused of violating a building code by operating a headquarters in his home.

¶ The ACLU of Michigan won acquittal of another Nazi party member who was accused of libeling the Negro race by distributing hate leaflets.

¶ The New York CLU will seek to have declared unconstitutional a city ordinance requiring the "conspicuous display" of an American flag by street speakers.

CONGRESSIONAL ACTION

The Courts

The U.S. Court of Appeals in Washington, D.C. considered the last three contempt-of-Congress cases which arose during the spate of post-World War II congressional investigations. The three men had been twice convicted for refusing to answer questions about their political associations, claiming constitutional protections against such interrogation. Their convictions were overturned by the U.S. Supreme Court in 1962 but a few months later they were indicted on new charges. Two of the men, Herman Liveright of Philadelphia, a former TV program director, and William Price, a former N.Y. *Daily News* reporter, had appeared before the Senate Internal Security Subcommittee. The Court of Appeals reversed the convictions on procedural grounds.

John G. Gojack, a labor union official, had been called by the House Un-American Activities Committee. His conviction was upheld by the U.S. Court of Appeals for the District of Columbia and the ACLU asked the U.S. Supreme Court to review the case. The petition asked the high

function is within the specific authority of the House Judiciary Committee." Quite apart from the jurisdictional issue, the letter condemned the circus that HUAC hearings would surely become "and for which the HUAC has been roundly criticized in the past." And the Union added that although it would be easy for the ACLU to cheer an investigation of a group as obnoxious as the KKK "the vitality of the democratic institutions we defend lies in their equal application to all. The single standard is still the best standard and it should be observed at every level of government."

The ACLU's objections to a HUAC investigation of the Ku Klux Klan took on particular pertinence a few days later when a civil rights worker was slain in Alabama, allegedly by members of the KKK. President Johnson strongly suggested that congressional committees may wish to investigate such organizations "and the part they play in instigating violence," but the ACLU registered its prompt objection to what the HUAC might consider an invitation to proceed in its disgracefully familiar style. The Union, though outraged by the murder and praising the prompt arrest of the Klansmen, said that "while an investigation of violence would not seem to involve First Amendment questions of speech and association, the record of the HUAC is one that clearly discloses wholesale attacks on these vital freedoms. Their public hearings have resulted in 'trial by publicity' in which people are accused of wrongdoing without benefit of confronting and cross-examining their accusers."

The real need, the Union said, is an investigation, perhaps by the House Judiciary Committee, of the administration of justice in the South "to probe the underlying reasons for the encouragement which overt criminal acts now enjoy in some Southern states. We suggest that a proper investigation be made of the present ineffectiveness of federal law enforcement in the South, including the continued selection of juries in federal courts and the appointment and hiring of federal court officials on a discriminatory basis." Nevertheless, the HUAC opened an investigation of the Klan.

The HUAC's major public effort of the year took place in Chicago and prompted the usual explosive hearings. Among the groups leading the opposition to the committee's investigation of alleged Communist influence in the area was the Illinois Division of the ACLU. The affiliate strongly protested the release of names of subpoenaed witnesses prior to hearings, in violation of fair procedure and the HUAC's own rules. It objected to investigations of persons launched by city officials, initiated only on the strength of the issued subpoena. In addition, the ACLU affiliate contributed a member to an eight-member lawyers' panel formed to represent witnesses desiring an attorney, and recruited a group of ACLU observers to scrutinize police conduct, picketing and other forms of protest. One subpoenaed witness, Dr. Jeremiah Stamler, an internationally eminent heart disease specialist, was forced to sign a statement of loyalty on the demand of the Chicago Board of Health —

a demand which the Illinois Division condemned as a violation of Stamler's rights under the First Amendment. Though the physician refused to testify before the HUAC, and subsequently filed suit against the Committee, the health board said his opposition had nothing to do with his professional usefulness or ability and voted unanimously to retain him. Rather than testify, Stamler walked out of the hearing on the advice of his counsel, Albert E. Jenner Jr., a former member of the U.S. Loyalty Review Board and an attorney for the Warren Commission that investigated President Kennedy's assasination. Jenner said the hearings should have been closed, and he should have had the right to cross-examine witness to protect his client from defamation and slander. He denounced the HUAC for "degrading U.S. citizens of good reputation" while operating from behind a "facade of alleged legislative fact-finding."

Stamler's suit follows the line of attack made so often in the past against the HUAC. Its authority is so broad and vague that freedom of speech and other rights under the First, Fifth, Ninth and Tenth Amendments are violated.

In the aftermath of HUAC hearings in Buffalo *(see last year's Annual Report, pp. 50-51)*, six of 15 witnesses who were called to testify lost their jobs. The Upstate Division of the New York State ACLU deplored this "economic reprisal" based on a refusal to testify, a right protected by the Constitution, and successfully intervened on behalf of two elementary school teachers whose recommendation for tenure had been denied because of alleged affiliation with the Communist Party. In one case, a teacher's husband had refused to testify; in the other, pressure to refuse tenure grew out of a 1957 HUAC hearing at which the teacher refused to testify. The Union affiliate urged the Board of Education to consider the cases on the basis of the teachers' professional competence and warned that any move to deny tenure on the basis of the HUAC hearings would be unconstitutional. After a heated controversy, the Board voted to grant tenure.

LOYALTY AND SECURITY

The Federal Scene

The U.S. Supreme Court, in a major decision affecting state-federal judicial relations, declared unconstitutional major provisions of Louisiana's subversive activities and communist control law. The decision, which declared that federal courts may enjoin state court proceedings under statutes that unconstitutionally deny free speech, may provide effective protection against harassment of civil rights workers in the South. The immediate effect of the ruling was to prevent Louisiana officials from trying James A. Dombrowski, executive director of the Southern Conference Educational Fund, Inc. and two other SCEF officials

for failing to register as members of a "Communist-front" organization *(see last year's Annual Report, p. 57).*

In a friend-of-the-court brief submitted to the tribunal the ACLU argued that the statutes were invalid on their face as violations of free speech and association. The Union also declared the lower Federal District Court had erred in denying injunctions sought by the SCEF officials. "We urge this court to make clear . . . that it is the duty of the District Court to *decide* cases," the brief said. And in view of "persistent and repeated misunderstandings in the lower courts" of U.S. Supreme Court rulings, "the public interest requires accurate adjudication at the trial level; appeals should be needed only when the law is truly unclear," the Union argued.

Commenting on the possible meaning of the case for the civil rights movement, the brief declared the issue to be whether federal rights would be enforced "or whether they are to be smothered in the name of state sovereignty." Resolving the issue, the high court overruled a previous doctrine under which federal courts had abstained from enjoining state court proceedings to give the state courts an opportunity to rule themselves. In the SCEF case, the Supreme Court said, even if the defendants successfully defeated the state's allegations the long legal battle "will not assure adequate vindication of constitutional rights." It is the "fact of the prosecution" itself, added the high court, which has a "chilling effect upon the exercise of First Amendment rights."

The seizure of some 2,000 allegedly pro-communist books and pamphlets by Texas law enforcement officials was denounced by the U.S. Supreme Court: "What . . . history indispensably teaches is that the constitutional requirement that warrants must particularly describe the 'things to be seized' is to be accorded the most scrupulous exactitude when the 'things' are books and the basis of their seizure is the ideas which they contain . . . The Bill of Rights was fashioned against the background of knowledge that unrestricted power of search and seizure could also be an instrument for stifling liberty of expression." The high court's stern reminder was issued in the case of John W. Stanford Jr., a San Antonio bookseller whose home was raided by Texas police under provisions of a law known as the Suppression Act. The Act outlaws the Communist Party and authorizes the issuance of a warrant for virtually any material that allegedly shows the person or individual is violating the statute. The ACLU, which handled Stanford's appeal, charged that the law violated federal protections under the Fourth Amendment against illegal search and seizure. The Union also argued that the Suppression Act was void on the grounds of superseding federal legislation in the area of communism, but the high court did not reach this issue.

The U.S. Supreme Court voided one section of the Subversive Control Act of 1950 that requires members of the Communist Party to register with the government, the first test of this provision which has been made

unenforceable over the last 14 years by previous court challenges raised by the Party. The ACLU filed a friend-of-the-court brief in the case, supporting the appeal of William Albertson and Roscoe Quincy Proctor. Pointing out that both men claimed the constitutional privilege against self-incrimination before the Subversive Activities Control Board, the ACLU said that to require them to risk criminal prosecution in order to test the validity of their constitutional claim would be "a mockery of justice." The law should, therefore, be held unconstitutional as applied to individual members who have, in timely fashion, claimed their privilege. Accordingly, they should not be required to register. Underscoring the First Amendment significance of the case, the Union argued that compliance with the SACB's order would force disclosure of political associations. "We submit that no such invasion of First Amendment rights should be permitted, barring a showing of grave public necessity, and that no such showing exists here or has even been attempted," the brief declared. In its decision the high court held that the individual registration provision directly violated the protection against self-incrimination.

Prior to accepting the Albertson-Proctor appeal, the high court had declined to rule on another section of the law, requiring "Communist front" organizations to register, on the ground that the record had become "stale" with the passage of time. Thus, it vacated orders against the Abraham Lincoln Brigade and the American Committee for the Protection of the Foreign Born and remanded the cases to the Subversive Activities Control Board "for proceedings consistent with this opinion." Dissenting Justices were sharply critical of the decision to avoid a test of the provisions under challenge. "The case is very much alive," Justice Douglas declared. The ACLU agreed, and in a 50-page friend-of-the-court brief argued that the statute violates the First and Fifth Amendments to the Constitution. The Union cited, among other reasons, the failure of the law to meet the clear and present danger test; the failure to distinguish the constitutionally significant difference between a Communist-front and Communist action organization; and the vague, uncertain range of acts it penalizes. Following the U.S. Supreme Court's refusal to face the constitutional issue, the ACLU urged Attorney General Nicholas de B. Katzenbach to discontinue legal action against both groups. "We urge the U.S. to abandon its futile pursuit of an invalid objective under a statute which is an affront to free men," the letter said, ". . . a constant reminder that the vast power of government can always be invoked to punish those with whom it disagrees."

The ACLU won several significant victories in the drive against loyalty oaths and affidavits required under federal laws and regulations. The Union regards these oaths as infringements on freedom of association and expression, protected by the First Amendment. An amendment to the Economic Opportunity Act removed the disclaimer oath as it affects Job Corps and Vista volunteers. Legislation submitted to create a national humanities foundation along the lines of the National Science

loyalty oath in 1964, which was finally won with the aid of the ACLU of Washington State after nine years.

The Ohio Civil Liberties Union vigorously protested the revocation of the articles of incorporation of the state Ku Klux Klan as a "subversive organization." "Although incorporation may be a privilege not constitutionally protected," the affiliate said, "to the extent that (it) is revoked because of the ideas espoused . . . revocation becomes a civil liberties concern. The state may not by withholding a privilege induce limitations upon freedom of speech, which if directly attempted would be unconstitutional. . . . Only the actual violation of law or the creation of a clear and present danger of a violation of law, determined with full due process safeguards, justifies the revocation of an association's incorporation on the basis of its advocates." The challenge was not pushed by the KKK.

Labor

Loyalty and Security

Following its defeat in the U.S. Circuit Court of Appeals for the Ninth Circuit, the government appealed a decision striking down a section of the 1959 Labor-Management Reporting Act prohibiting Communist Party members from holding office in labor unions. By a narrow margin, the U.S. Supreme Court sustained the lower court, holding the provision to be a bill of attainder and thus a violation of the Constitution. A bill of attainder is legislation which inflicts punishment without a judicial trial.

The case involved Archie Brown, who served on the 35-member executive board of the Local 10 of the International Longshoremen's and Warehousemen's Union, and on whose behalf the ACLU of Northern California filed a friend-of-the-court brief. The affiliate said the provision of the Act "seeks to partition off from a small minority the full guarantee of freedom of speech and association, the guarantee that liberty will not be taken without due process of law, and seeks to put members of the group under a sweeping bill of attainder." The high court concurred, declaring that Congress "cannot specify the people upon whom the sanction it prescribes is to be levied."

Heartened by the U.S. Supreme Court decision in the *Brown* case, the ACLU and eight national labor unions jointly filed a friend-of-the-court brief asking the high court to strike down the non-Communist affidavit provision of the Taft-Hartley law as a bill of attainder. The latest test was brought in behalf of six officers and employes of the International Union of Mine, Mill and Smelter Workers who were convicted of conspiring to defraud the government by falsely denying their membership in the Communist Party or their affiliation with the Party.

Foundation eliminated an oath requirement because, in the words of the legislation's sponsor, "they haven't accomplished anything." The strong stand by the Union against disclaimer oaths also appeared to be a major factor in dropping the requirement for applicants for federal Public Health Service fellowships.

After pondering the case for six months, the U.S. Court of Appeals for the District of Columbia ruled in favor of a job applicant who had been accused of homosexual conduct and thereby barred from federal employment for three years. The case, supported by the National Capital Area CLU, was significant in two respects: 1) for the first time, job applicants (as distinguished from employes already on the job) were recognized as having the right to challenge disqualifications in the courts; 2) the court held that mere allegations of "immoral" or "homosexual conduct" were not sufficiently specific to justify disqualification or dismissal. Henceforth, the Civil Service Commission will have to tell an employe or applicant exactly what they did that warranted a label of immorality.

In other actions by the ACLU and its affiliates:

¶ The ACLU charged the Veterans Administration with violating the First Amendment rights of Robert G. Thompson, a Communist Party official, by denying him disability benefits because he attacked U.S. policy during the Korean War. Thompson won his benefits, on technical grounds.

¶ The National Capital Area CLU won a victory in the U.S. Court of Claims, which held that a government employe accused of falsely denying membership in the Communist Party cannot be deprived of his annuity without a trial-type hearing.

¶ The Illinois Division investigated the case of a homosexual fired from a non-sensitive federal government job after he was convicted for disorderly conduct for homosexual assault — as it happened against an undercover policeman.

¶ After intervention by the ACLU of Northern California, the Atomic Energy Commission dropped security charges against a scientist accused as a security risk because he and his wife allegedly associated with members of organizations held to be subversive.

State and Local Issues

The Arizona CLU argued its challenge of the state's loyalty oath for public employes before the Arizona Supreme Court. In a friend-of-the-court brief filed on behalf of Mrs. Barbara Elfbrandt, a Quaker and a junior high school teacher in Tucson, the affiliate said that the vague language of the oath abridged the rights of freedom of thought and expression guaranteed by the First Amendment. The case was based on the U.S. Supreme Court's decision voiding the Washington State

The conviction was also assailed for relying on the vague concept of "conspiracy" which, the brief pointed out, has often been used to harass unions. The Mine-Mill case has aroused special interest in labor and civil liberties organizations since the 1950's. The affidavits which are the basis of the government case were signed between 1949 and 1955. The defendants were convicted in 1959 after this provision of the Taft-Hartley law was repealed, but the decision was reversed because of prejudicial hearsay testimony allowed at the trial. Convicted on retrial in 1963, they then petitioned the U.S. Supreme Court to review the case following a decision sustaining the conviction.

Hollywood, which has been in the spotlight over loyalty-security disputes that sharply divided the film colony, was again the focus of a major loyalty oath challenge. The test grew out of a merger between the Screen Director's International Guild, operating in the New York area, and the Director's Guild of America, which operated on the west coast. Backed by the ACLU, six members of the SDIG sought an injunction in a Federal District Court forbidding the DGA to refuse the directors membership in the new organization because of their refusal to sign a loyalty oath which has long been a requirement of the DGA. The refusal was a matter of principle; the plaintiffs argued that the oath establishes "a test of political belief as a condition of union membership; maintains a foundation for a political blacklist . . .; restricts freedom of expression . . . and diminishes personal integrity by forcing avowal of unclear generalities."

Workers' Rights

The ACLU urged strict enforcement of Title I of the Labor-Management Reporting Act which provides pre-election remedies of alleged abuses of union members' rights. The Union's views were submitted in a friend-of-the-court brief filed on behalf of three members of District 1 of the Marine Engineers' Beneficial Association, AFL-CIO who argued before the U.S. Supreme Court that they were not given a fair opportunity to nominate candidates for union office after the MEBA adopted a reorganization plan in 1961. The reorganization drastically changed the union's rules for nomination and eligibility for office. Challenging the trio, the president and secretary-treasurer of the MEBA sought to apply another section of the Act, Title IV, which affords remedies only after an election. The ACLU brief said that Title IV was inadequate protection since "the interim period, for the protesting members, must be spent with a hostile administration in full control of union offices and authority and with full opportunity to consolidate its strength and position. Furthermore, it affords only limited inquiry into election abuses because it is available only after intra-union remedies are exhausted, and then at the decision of the U.S. Secretary of Labor rather than an individual complainant. The U.S. Supreme Court, however, ruled that the change of

rules in the complaint did not violate Title I, although they might violate Title IV. Thus, the Court removed the case from the jurisdiction of the federal courts.

The U.S. Supreme Court, reversing the U.S. Court of Appeals for the Second Circuit decision, upheld the voting system used by most labor unions at their conventions. On most convention roll calls, unions authorize delegates to vote the actual membership strength of their locals rather than give each delegate a vote. The weighted system was challenged by a faction within the American Federation of Musicians who claimed that a union dues increase was approved by a minority of the convention delegates, (though it represented a majority of the union membership represented).

The New York Civil Liberties Union filed a friend-of-the-court brief challenging the constitutionality of the state's Condon-Wadlin law, which bars strikes by public employes. The brief raised a variety of issues, including the fact that the penalty provisions of the law (strikers must work two days without pay up to 30 days for each day on strike) constitute involuntary servitude.

Bias

Considering the civil liberties questions raised when an employer uses his rights of free speech to present false or misleading statements to employes during a union organizing drive, the ACLU Labor Committee concluded that such biased statements may properly be grounds for the National Labor Relations Board to overturn a representation election. The decision, in effect, endorsed the current policy of the NLRB which holds that willful misrepresentation of facts within the knowledge of the speaker, under circumstances which make effective rebuttal impossible, and where employes lack independent knowledge to weigh the erroneous statements, may serve as reason to order a new election. The NLRB doctrine does not violate the First Amendments rights of free speech, the ACLU said. In the interest of fostering free discussion during representation campaigns, the ACLU also supported the principle of the NLRB's backing of a union request for access to employees on company time and company property, in order to reply to an anti-union speech made by employers under similar conditions.

In the first major series of complaints filed under the 1964 Civil Rights Act, the NAACP charged 10 employers and five major labor unions with racial discrimination. In one case the NAACP said that an East St. Louis fertilizer plant operated by Darling & Co. had three white locals whose members had all the skilled, better-paying jobs, while the Negro members of the same union, the International Chemical Workers, were segregated in a fourth local. In a Memphis plant of the Kroger Baking Co., a member of the Bakers Union charged, the company restricted Negroes, some with college degrees, to janitorial jobs.

DUE PROCESS OF LAW

Congress wiped out a 40-year-old blight on the national record by writing a new immigration bill that erased discriminatory quota provisions used to virtually exclude southern Europeans and Asians from American shores. Though sections of the new law fell short of the ACLU's desires, the measure was nevertheless a major legislative achievement and vindication of long effort aimed at reform.

Other civil liberties reforms, in the area of social welfare, were won with liberalization of the rights of the mentally ill in New York State and the District of Columbia. And on a frontier issue of civil liberties, the Union launched a major effort to have the courts treat chronic alcoholism as an illness, not a crime.

The no-man's land between constitutional standards and police practice continued to be a bitterly contested area of civil liberties, with the U.S. Supreme Court gradually extending the rights of the accused. Though the trend was not wholly consistent—the Court ruled that a right protected by the Bill of Rights would not be granted retroactively, for example—the tribunal backed up the thrust of its decisions in recent years by holding state courts to the requirement that defendants must have the right to cross-examine witnesses. On three basic issues of criminal law the high court has yet to spell out its conclusions in detail: the circumstances under which a confession is admissable: the question of how soon a defense attorney may appear for his client; and the obligation, or lack of it, by the authorities to inform a prisoner of his constitutional rights. Relevant to the controversy was the growing public demand for an impartial, independent civilian authority to investigate charges of police malpractice—a demand for some form of public review board which the ACLU and its affiliates have vigorously supported.

Concluding a two-year study of the highly emotional, morally complex issue, the ACLU took a stand opposed to capital punishment and promised a major effort to seek the repeal of existing laws that impose the death penalty. The Union said that capital punishment denies equal protection of the laws, is cruel and unusual punishment and eliminates due process guarantees—irrevocably.

The continuing controversy between the conflicting demands of a free press and a fair trial were highlighted by the U.S. Supreme Court's reversal of Billie Sol Estes's swindling conviction. Television coverage of the Texas trial made it impossible for Estes to get a fair hearing, the Court declared.

Federal Executive Departments
Citizenship and Deportation

Congress

An objective sought by every President since Harry S. Truman was finally achieved when Lyndon Johnson signed a new immigration bill at the foot of the Statue of Liberty. The historic reform, long advocated by the ACLU, removed the 40-year-old national origins quota system which favored immigrants from northern Europe and discriminated (and often virtually excluded) persons from southern Europe, Asia and other parts of the world. The Union said the quota system was fashioned in "ignorance" and accompanied by "ignobility." In place of the old law, the new measure set up an annual quota of 170,000 immigrants from all nations outside the Western Hemisphere, with a limit of 20,000 from any one country. It was a long step toward equality, but one section of the new law was deplorably backward: it placed a ceiling on newcomers from Canada, Mexico and other nations in this hemisphere of 120,000 annually, but fixed no limit for individual countries.

The restrictions for the Western Hemisphere were written into the bill in the Senate, where the ACLU testified on the then-pending legislation. The Union opposed such limitations while making several proposals of its own. The ACLU proposed a 10-year statute of limitations on deportable offenses, removing "the threat of banishment and exile" from resident aliens and securing "a fair and humanitarian administration of the deportation laws." In addition, the Union suggested that any alien admitted to the U.S. for permanent residence prior to his 14th birthday should be immunized from deportation and that sailors who marry U.S. citizens should be allowed to remain. Among the grounds for deportation are failure to register as an alien, becoming a public charge within five years of arrival, conviction of two crimes involving moral turpitude, advocating the doctrines of communism. The ACLU's recommendations failed to pass, however.

Citizenship

Aided by the ACLU, a Fresh Meadows, N.Y. man successfully concluded a two and a half year campaign to force the State Department to eliminate the word "race" from its immigrant visa and alien registration forms. The effort began when Myron Blumenfeld found that the "race" question was still in use when he applied for a visa for his adopted son, a Greek orphan, who came to the U.S. under a law permitting an adopted orphan to enter as a non-quota immigrant. But three years previously, Congress had passed a law specifically requiring the elimination of any question of race or ethnic classification from immigrant visa forms.

The ACLU of Northern California defended Socialist Party leader Bogden Denitch's petition for naturalization. It was denied in a Federal District Court on the grounds that Denitch was not of "good moral character" because he had falsely said he was a citizen in applying for a job (he is eligible to apply again, however). Even so, the decision represented a civil liberties victory in that the decision rejected the government's political and religious objections to Denitch's petition. "Conformity in religious or philosophical belief, political viewpoint and economic theory, is not a prerequisite to citizenship," the judge declared. "It is well that this is so. Otherwise our society would lose the vitality stemming from free expression of diverse views and from non-violent advocacy." The words should have been heard in Syracuse, N.Y. where a month-long protest by the Upstate Branch of the New York State Civil Liberties Union was necessary before a Syracuse University professor was awarded citizenship. The reason for the delay was that between the date of his security clearance and his scheduled swearing-in, the professor had joined the ACLU.

Deportation

Issues of basic religious liberty were involved in the threatened deportation of a Greek national on whose behalf the ACLU filed a friend-of-the-court brief before the U.S. Court of Appeals for the Fourth Circuit. "Deportation . . . will, as the Government freely concedes, virtually insure his imprisonment there for practicing religious rights which are protected by the First Amendment and guaranted against abridgement . . . through the Fourteenth Amendment," the Union brief declared. The case involves Eleftherios Liadakis, a Greek seaman who entered the U.S. in 1960 as a non-immigrant crewman and overstayed his allowed time. While in this country he married a U.S. citizen and converted to the faith of Jehovah's Witnesses. If he is forced to return to Greece Liadakis intends to continue the proselytizing required by the faith, even though the Greek constitution forbids proselytism "or any other interference" with the Greek Orthodox Church. The punishment is imprisonment. The Union contended that the section of the Immigration and Nationality Act authorizing the Attorney General to withhold deportation if the alien would be subject to "physical persecution" clearly applies to the imprisonment Liadakis faces. Furthermore, the ACLU said, the right to proselytize in the U.S. is a firmly rooted religious freedom, as is the tradition of aiding victims of religious oppression.

CONFINEMENT OF MENTALLY ILL

The Iowa CLU, filing a petition on behalf of a mental patient transferred from a hospital to an institution within the confines of a state

prison, prompted a major state reform in the confinement of the mentally ill. As a result of the case, 17 patients were moved back to the mental institution they came from and the legislature authorized construction of a new security hospital for the confinement of dangerous mentally ill patients. The reform followed a court ruling that it is unconstitutional for the state to transfer a patient from a mental health institution to a prison hospital at the Anamosa Reformatory. The practice had been routine for years, involving non-criminal mentally ill patients, before it was challenged by the ACLU affiliate. The Iowa CLU pointed out that civil procedures for committing a person to a mental hospital are not the same as the criminal procedures required to commit a person convicted of a crime to prison, arguing that the state-sanctioned transfer violated constitutional guarantees against loss of liberty without due process of law.

Major legislative reforms affecting the mentally ill were approved in the District of Columbia and New York State. The National Capital Area CLU hailed a law for which it had campaigned for years, simplifying voluntary commitment procedures and establishing rules guaranteeing prompt release unless a court order is obtained. Another feature of the legislation is a "Bill of Rights" governing communications by patients to individuals or agencies, the use of mechanical restraint, and the right to vote, sign contracts and dispose of property unless judged mentally incompetent. New York's rigid McNaghten rule was liberalized after 122 years by a law that liberalized the concept of criminal insanity. Under the old rule, psychiatrists could only answer yes or no on whether a defendant suffered from total mental incapacity; a defendant was considered sane unless he was completely incapable of knowing what he was doing, and whether it was right or wrong. Now, however, psychiatrists will be able to testify whether a person is "substantially" incapacitated and give his complete opinion of the defendant's mental condition, including whether the defendant could "appreciate" the difference between right and wrong. In a second major reform, the new law also ended the indefinite hospitalization of non-criminal patients without legal review by providing for a new agency which will guarantee court hearings at specific intervals after admission to an institution.

The ACLU was one of the groups which won the release, after 15 years, of a patient erroneously committed to Matteawan State Hospital for the Criminally Insane in New York. The patient, Paul Shappet, was committed in 1949 while on probation as a youthful offender and technically had no criminal record. The state relied on the fact that he had a previous criminal indictment, but since the indictment was nullified, Shappet's lawyer successfully argued that the patient should have been sent to a civil institution and not an institution for criminals.

In other actions by ACLU affiliates:

¶ The Minnesota CLU launched a campaign attacking as unconstitutional commitment legislation and practices on a statewide level. The drive

began after the MCLU obtained the release of a patient after six weeks of imprisonment without a hearing, being denied the right to consult with her family doctor, contact her attorney, or even to call any friends.

¶ The Kentucky CLU won a state appellate court decision on the grounds that doctors in a mental inquest hearing presented affidavits, rather than subject themselves to cross-examination. The court held that although the inquest is quasi-criminal, the defendant's freedom is involved as in a criminal case.

¶ The Wisconsin CLU sponsored a workshop on the civil liberties aspects of mental committment which produced quick results: introduction of a bill in the legislature directing the Legislative Council to review state commitment practices.

¶ A murder defendant who became insane after he was convicted was defended by the Louisiana CLU, which won commitment of the prisoner to a state hospital and a stay of execution.

¶ The Illinois Division successfully defended the right of an artist to his privacy and property. The artist, who had been a temporary mental patient, was unable to get hospital authorities to release work done there and was embarrassed by a public exhibition of his work in a show featuring the art work of mental patients.

MILITARY JUSTICE

The U.S. Court of Military Appeals upheld a provision of the Uniform Code of Military Justice which grants an absolute right of appeal to flag and general officers, but which affords lower ranks only a discretionary right of appeal. In a friend-of-the-court brief suit filed on behalf of Army Private Richard G. Gallagher, the ACLU challenged the constitutionality of the provision as an arbitrary denial of equal protection under the law. "As a federal court," the ACLU declared, "this court is bound to give equal due process to all military defendants regardless of their rank." In denying Gallagher's petition, the appellate court held that due process was not denied because "the right of appeal is not essential to due process of law." Furthermore, the court added, although the right of appeal is discretionary under the Code, "it is, in fact, a substantial review based upon arguments in writing" as well as an examination of the record for further infringements.

The San Antonio Chapter of the Texas CLU appointed a subcommittee to investigate reported violations of constitutional rights of

federal employes at Kelly Air Force Base through the use of psychological tests. A small random sample of employees interviewed by the Chapter disclosed that employes were being forced into retirement through "medical" disability following the administration of a few paper and pencil psychological tests and a brief interview with a psychiatrist. The employe was not formally informed of his alleged inadequacies, nor was he allowed to present his side of the issues or consult with his own physician (his right under Air Force regulations). In a few cases where the employe objected to the procedure and appealed through formal grievance machinery, he has been reinstated — but only after months of delay and after subjecting himself to more tests and examinations to prove he is in good mental health. The Chapter said the practice was a clear invasion of privacy and due process in which individuals have been apparently intimidated into submitting to examinations without being provided adequate advice as to their rights under the law.

WIRETAPPING

A national scandal erupted over disclosures by the Senate Judiciary Subcommittee on Administrative Practice and Procedure that the Internal Revenue Service had knowingly used illegal wiretaps, hidden microphones, two-way mirrors and a variety of snooping devices in investigating suspected tax frauds. IRS Commissioner Sheldon Cohen and Attorney General Nicholas deB. Katzenbach acknowledged that the IRS taught wiretapping techniques to agents and supplied wiretap technicians from Washington despite laws against electronic bugging. In one case, agents disguised themselves as telephone company agents and, using a similarly disguised truck, tapped conversations in Pittsburgh on three different lines for four months.

In a potentially significant lower court decision in New York City, the 1958 state law authorizing electronic eavesdropping was declared unconstitutional. A detailed opinion delivered by Supreme Court Justice Nathan R. Sobel addressed itself to the issue of whether a legally-authorized order for eavesdropping may be equated under the Fourth Amendment to a warrant authorizing trespassing to "search" for conversations. Finding an eavesdropping order to be equivalent to a search warrant, the court applied the Fourth Amendment's requirements for the issuance of search warrants, which include specifications in advance for the things to be seized during a search. Moreover, no warrant may be issued for the purpose of discovering mere evidence of a suspect's guilt. Hence, the law permitting official bugging does not meet these constitutional requirements, according to the opinion, and the evidence thus obtained is not admissible in court. The ruling dismissed the indictment of a Brooklyn policeman, Leonard Grossman, and three

others on charges of conspiracy to kill unidentified stool pigeons, based on evidence obtained by bugging the premises of one of the accused. The court-authorized bug, however, was placed in the course of an investigation into a jewel theft; the alleged conspiracy was uncovered as an unrelated matter during five months of eavesdropping during which all conversations were overheard.

In other actions by ACLU affiliates:

¶ The Illinois Division of the ACLU called on state officials to investigate possible violations of the state's eavesdropping law as they involved tape recordings made in a Springfield hotel without the knowledge or consent of the persons whose voices were recorded. The Division also opposed a proposed wiretap law, subsequently killed in the legislature, as a dangerous assault on the right of privacy. Judicial control of wiretaps is a mythical safeguard, the affiliate declared "because a judge can only act as a rubber stamp in a secret wiretap hearing brought without any notice to the citizen whose privacy is being invaded."

¶ The Minnesota CLU strongly supported legislation which would outlaw the use of eavesdropping devices as violations of the Fourth Amendment's right to privacy and the Federal Communications Act, which makes it a federal crime to wiretap.

¶ A new Public Safety building opened in Syracuse, complete with the latest in electronic snooping devices in cells and waiting rooms. The Upstate Division of the New York State Civil Liberties Union registered a strong protest and after some months the system was disconnected.

ILLEGAL POLICE PRACTICES

Search and Seizure

Ruling for the first time that a right guaranteed by the Bill of Rights would not be applied retroactively, the U.S. Supreme Court rejected the appeals of two men who argued that their conviction in state courts was based on illegally obtained evidence. Both men based their claim on the high court's 1961 decision in the *Mapp* case, which held that the Fourth Amendment's prohibition against evidence seized in unreasonable searches and seizures is applicable to state courts. The question of retroactivity has become increasingly significant as the Court has expanded the safeguards available to defendants in state courts. As a result, the administration of justice in state courts is in a somewhat confused state, with prosecutors claiming they are hamstrung in the pursuit of criminals and civil libertarians insisting that defendants are entitled to every constitutional guarantee available under the Bill of Rights. The high court, in effect, took note of the situation by refusing to make the *Mapp* ruling retroactive, thus indicating that it would take

into account the effect of its rulings on the states. "The Constitution neither prohibits nor requires retrospective effect," the majority opinion declared. And in contrast to previous retroactive Court decisions on the right to counsel and coerced confessions which raised doubts about the actual guilt of the prisoners, the majority held that prisoners convicted before *Mapp* are no less guilty. *Mapp's* purpose was to deter unlawful police practices. "That purpose will not at this late date be served by the wholesale release of the guilty victims," the Court declared.

The "guilty victim" in this case was Victor Linkletter, a New Orleans burglary suspect whose home was invaded by police without a warrant. They seized the evidence that sent him to prison on a nine-year sentence. Unfortunately for Linkletter, his conviction became final 15 months before the U.S. Supreme Court decision in *Mapp*. A lengthy dissent in the Linkletter case called him the victim of "grossly invidious and unfair discrimination . . . simply because he happened to be prosecuted in a state that was well up with its criminal docket."

The U.S. Supreme Court reversed the gambling conviction of William Beck, upholding that the arguments of the ACLU and its Ohio affiliate which filed a friend-of-the-court brief in the case. Beck was arrested in November 1961 as he was lawfully driving his car. He was stopped by a policemen who had a police photograph of Beck, and knew him to be a convicted policy operator. While no evidence was found on him or in his car, a further search at the police station after hs arrest turned up policy slips hidden in Beck's shoes. The Union brief held that Beck's constitutional rights were violated under the Fourth, Fifth and Fourteenth Amendments. No warrant had been obtained for the search, the brief declared, even though the police had ample opportunity to get one. Moreover, "the conviction . . . flowed directly from the denial of a timely motion to supress the evidence so obtained (which) collides violently with the federal constitutional standards to which state criminal procedure is obliged to conform."

Chronic alcoholism is the fourth largest public health problem in the United States, but police and the courts routinely treat it as though it was a crime, not an illness. As long as that attitude persists, arrests of chronic alcoholics raise serious civil liberties issues which the ACLU and its affiliates are pressing in the courts. The cases raise two basic issues: (1) does a chronic alcoholic who becomes drunk in public possess the criminal intent necessary for violation of public intoxication statutes? and (2) is it cruel and unusual punishment in violation of the Eighth Amendment to impose criminal sanctions upon a chronic alcoholic who publicly exhibits a symptom (drunkeness) of a disease (chronic alcoholism?). The purpose of ACLU-supported test cases in Washington, D.C. North Carolina, California and Michigan is to establish the principle that a chronic alcoholic cannot be convicted of the crime of public intoxication, and must therefore either be civilly committed for treatment and rehabilitation or allowed to go free.

The National Capital Area CLU supported the appeal, denied by the U.S. Court of Appeals, of DeWitt Easter, a 59-year-old plasterer who has been arrested 70 times since 1937 for being drunk in public. At the same time, the court criticized Congress for failing to provide an effective rehabilitation program for the District of Columbia. A further appeal is pending. In a similar North Carolina case the defendant, Joe B. Driver, was convicted of public intoxication and sentenced to two years in jail — his 203rd arrest. Driver estimates he has spent two-thirds of his life in jail for public intoxication. That case, too, is on appeal, to the U.S. Court of Appeals for the Fourth Circuit.

The ACLU position in this emerging area of civil liberties was outlined in detail before the House Committee on Interstate and Foreign Commerce, which was considering bills introduced to establish a federal Commission on Alcoholism. The Union heartily supported the measures as an overdue effort to treat the disease of alcoholism medically and humanely, not as though its victims were criminals. The ACLU's chief concern is not the overwhelming majority of the country's 5,000,000 chronic alcoholics who manage to steer clear of the law and keep their sickness "invisible," but the 10% of skid row alcoholics who are arrested again and again and again, contributing to most of the 2,000,000 arrests for drunkeness in 1964 — one-third of the total arrests in the entire country.

New York State's "stop and frisk" law — which permits a policeman to detain and search a person in a public place upon "reasonable" suspicion that a felony or serious misdemeanor is being, or is about to be, committed — unfortunately was the model for similar measures in Illinois and Miami, Fla. In a major victory, the Illinois Division of the ACLU convinced Governor Otto Kerner to veto a bill which would have allowed a policeman to detain and search anyone upon mere suspicion, permit the confiscation of any evidence found in the process, and compel the citizen to explain his actions. The affiliate argued that the bill violated Fourth Amendment protections against illegal search and seizure, the Fifth Amendment's guarantee against self-incrimination and the Fourteenth Amendment's right to due process.

The Florida CLU opposed a Miami ordinance patterned after the New York law; the affiliate said it would violate basic constitutional rights and lead to a rash of false arrest suits against the city. Meanwhile, in New York, the ACLU affiliate called for repeal of the "stop and frisk" law following an incident that proved the law's peril to citizens: a policeman nearly shot an innocent person to death when he turned and ran out of fear at being abruptly stopped and frisked.

In three cases brought by the ACLU of Southern California the affiliate: filed a $100,000 damage suit against Los Angeles police for the pre-dawn invasion of Timothy Morton's home without a warrant, although 15 hours later Morton was released and charges against him for

suspicion of armed robbery were dropped; filed a brief urging that narcotics obtained from the stomach of a suspect by means of a tube forced through his nose and injections causing him to vomit were violations of the Fourth and Fifth Amendments; and won, on appeal, its case that a woman could sue for damages under the Federal Civil Rights Acts because after she entered the station house to complain of an assault, police compelled her to submit to the taking of nude pictures and then promiscuously circulated them in the building.

Registrations and Roundups

With the full backing of the ACLU a controversial criminal registration ordinance was defeated in Middletown, N.J. It would have required persons convicted in a state or federal court of a major crime in the past 10 years to register with police if they entered the township. Police had sought the legislation as an investigative tool, but opponents pointed out it would be a serious threat to civil liberty, was unenforceable, and could be used to harrass people who had already paid their debt to society and were trying to live a proper, private life. "Such a practice," the Union declared, "cuts directly across the rights of due process guaranteed in the Fifth and Sixth Amendments. . . . We also believe that zeal for crime prevention should not endorse tactics which smack of totalitarian tyranny." In addition, experience shows that in countries with registration-fingerprint procedures the effect on lowering the crime rate is negligible, the ACLU observed. A state-wide registration ordinance in Arizona that would affect persons convicted of a felony was vigorously opposed by the Arizona CLU. The proposal was subsequently defeated unanimously.

Vagrancy and Loitering

The U.S. Supreme Court agreed to review the contention of the National Capital Area CLU that a section of the District of Columbia's vagrancy law is unconstitutional because it is too vague. The appeal may have far-reaching significance, since the outcome could affect vagrancy ordinances throughout the country under which police often make wholesale arrests, and hold persons on the technical charge of "vagrancy" while questioning them in connection with other alleged crimes. The definition of a vagrant under District law is "Any person leading an immoral or profligate life who has no lawful employment and who has no lawful means of support realized from a lawful occupation or source." The ACLU affiliate contended that the vague language violates the due process clause of the Bill of Rights. In addition, the affiliate argued that it violated the Sixth Amendment which guarantees persons the right to be informed of the nature of the charge. The defendant in the appeal, represented by the NCACLU, is Eddie Hicks, a 27-year-old former actor, who was arrested in Washington's DuPont Circle while

playing his guitar and singing. Hicks allegedly has no permanent home and wanders across the country.

Examples of the abuse practiced under vaguely-worded vagrancy laws were two cases defended by the New York CLU. Police arrested two transvestites on vagrancy charges, but the affiliate brief argued it is not unlawful to appear in public wearing clothes of the opposite sex and that, in any event, vagrancy was not the proper charge. In other cities, the vagrancy ordinance of Minneapolis was opposed by the Minnesota Branch, ACLU and the ACLU of Northern California won dismissal of two vagrancy charges for lack of evidence under a San Francisco ordinance defining a vagrant as someone who loiters "about any school or public place at which children normally congregate." A state appellate court had upheld the constitutionality of the ordinance, but limited the application to persons who loiter in a manner suggesting they might commit a crime. Other loitering statutes were opposed by ACLU affilates in Austin, Tex. and St. Louis.

Brutality

With the help of the ACLU of Pennsylvania, two victims of police brutality during 1964 civil rights protests in Chester, Pa. brought suit in federal court against a group of state and local policemen. The two men, Herman Dawson and Milton Reaves, were among the most brutally treated by law enforcement officials, according to a the findings of a special investigating commission appointed by the Governor. Dawson's complaint alleges he was pulled from a parked car by police, beaten unconscious although he was not resisting them, and left without medical attention for more than an hour and half; he was so seriously injured that he later spent 12 days in the hospital.

In two brutality cases investigated by the Illinois Division of the ACLU the affiliate defended the victim of an unprovoked beating in East St. Louis and pressed the case of a Springfield man who was chased and set upon by two policeman after he impulsively fired a bullet into the air near his home. The ACLU of Michigan sought a rarely-used avenue of redress — a citizen's warrant — in pursuing a case in which a youth was savagely beaten by at least eight policemen after he was arrested and in custody. The affiliate also welcomed the conviction of a Detroit policeman for felonious assault, which concluded a protest of brutality originally initiated by the ACLU of Michigan in 1963.

Police Review Boards

Amidst peaceful protests, violent riots and litigation, pressure rose in more than a dozen cities for the creation of an impartial review board to investigate citizen complaints of police misconduct. The ACLU

and its affiliates have pressed for police review boards for years, but only recently — with growth of the civil rights movement — has the general public become aware of the need for machinery that fairly and promptly can assess allegations of brutality and discrimination that feed the fires of racial tension.

In New York, where a police review board became a political issue in a mayoralty campaign, a significant break in police opposition to such a panel came with a vote by Negro policemen in favor of an outside civilian review board independent of the Police Department. Added pressure was supplied by a committee of the prestigious Association of the Bar of the City of New York, which overwhelmingly approved the creation of a nine-member civilian complaint board. "The procedures presently in effect do not offer assurance" of an impartial hearing and fair disposition of charges of abuse of police authority, the committee said. "Indeed, they encourage the belief that charges of police misconduct are not disposed of fairly." As for the political campaign that awakened further interest in a public review board, the New York CLU criticized proposals made by one mayoralty candidate and another made by a City Council subcommittee. Rejecting a proposal that the board include representatives of minority groups, the affiliate said: "If a number of members . . . happen to be Negroes and Puerto Ricans, well and good; but we would not want to see anyone on the board who feels he must act in the interests of . . . a racial group. That would make a mockery of (any) claim to be impartial." As debate continued, the Police Department announced a change in existing civilian complaint procedures, as well as changing the location of the complaint bureau from Police Headquarters to a more accessible, less forbidding commercial office building. The change followed fresh demands for a review board in the wake of the shooting of a Negro by a white policeman, one of several such incidents that pointed up the need for reliable, impartial judgements of police practices.

The almost universal opposition by policemen to a review board — on the theory that it hampers their effectiveness — was crystallized in Rochester, N.Y. where the city's fraternal order of policemen, the Locust Club, filed suit in a state court challenging the constitutionality of the city's two-year-old Police Advisory Board. A friend-of-the-court brief filed by the New York State CLU defended the existence of the board. The city administration took the same position; in a separate statement city officials declared that the board was more necessary than ever, despite initial indications of its ineffectiveness following the 1964 riots in Rochester.

Philadelphia policemen also attempted to end the life of the city's Police Advisory Board, in existence since 1958 (the oldest independent review board in the country). In attacking the panel, the Fraternal Order of Police abandoned the accusation that it was a Communist plot; instead, the board was criticized as "a kangaroo court." More serious than

the effort to kill the board through a law suit was the danger that the panel would die from inactivity, imposed by Mayor James Tate. The board was inactive for about two years because of unfilled vacancies and its future was in doubt when the Mayor finally appointed a new full-time executive director and filled two vacancies on the board itself. The Greater Philadelphia Branch of the ACLU welcomed the reactivation of the review board as fervently as it had condemned its previous state of involuntary suspension. Of the 127 new cases filed for the board's decision in 1964, 49 charged brutality, 31 were for illegal search and seizure, 25 for miscellaneous reasons and 22 for harassment. The docket comprised 127 reasons why the board should be back at work. A police review panel should be at work in York, Pa., too, especially in the wake of several incidents of police brutality; instead, the ACLU of Pennsylvania cooperated with the local NAACP branch and filed suit to compel the Mayor to appoint members to the panel, which has been inactive since it was authorized by the City Council in 1959. Also dormant was a review board in Minneapolis, appointed in 1960 but which has never functioned.

Such inactivity is particularly deplorable since an active board — as Philadelphia's had been — performs a vital community function. Until the Philadelphia panel was created, no policeman had ever been disciplined on the complaint of a civilian. But in 1961-62 the board settled 96 cases to the satisfaction of the complainant without a hearing. In cases in which hearings were held, six were decided for the complainant and five for the policeman.

In Seattle, where the long controversy over a police review board received fresh impetus following a fatal shooting by a policeman, the ACLU of Washington State renewed its demand for an outside investigatory panel. The affiliate cited a 1955 investigation which found that the Police Department's existence under Civil Service actually made it an autonomous branch of city government, "untouchable by the Mayor, council, and certainly by any citizens' committee." The situation has not changed substantially since then. At the insistence of the affiliate a public hearing on police practices was finally held, but local lawmakers steadfastly refused to open an investigation of alleged police misconduct.

Responding to public demands for a police review board in Newark, N.J., Mayor Hugh Addonizio announced a plan under which all cases of alleged police brutality would be referred to the FBI for investigation. The ACLU of New Jersey attacked the proposal, pointing out that the state should enforce laws within its jurisdiction instead of calling on the FBI, which deals only with violations of federal crimes. Besides, said the affiliate, the FBI's record in civil rights cases has not been inspiring. However, other aspects of the Mayor's proposal were welcomed by the Union affiliate, among them: a human relations training institute for policemen; promulgating proper rules of conduct by the police chief;

assigning police to community relations activities; and a citizen observer program, under which a civilian would ride in each patrol car — a novel suggestion but one which foundered initially for lack of recruiting observers.

In the District of Columbia, the National Capital Area CLU's determined campaign for an improved civilian review board finally paid off. The board was expanded from three members to five, with the two additional members to be attorneys; at least one of the lawyers must be present when the board is in session. The board is also empowered to investigate complaints and make recommendations. A newly-created Mayor's Committee on City-Citizen Relations in Denver — five prominent citizens with the right to evaluate complaints and make recommendations concerning the abuse of personal or civil rights by any city employe — was hailed by the Colorado Branch of the ACLU. Though the committee's mandate was rather broad, it essentially serves the function of an independent police review board. And in Atlanta, where the police chief proposed an inspection division within the department to investigate complaints, the Georgia ACLU instead proposed a review board composed of civilians, arguing: "The citizen who is subjected to these (illegal) practices is likely to be both friendless and penniless and in no position to defend his rights. He needs an avenue of redress which could best be supplied by a citizens board with representatives from every segment of the Negro and white community."

The riots in the Watts section of Los Angeles prompted the ACLU of Southern California to make a detailed study of police malpractices, one of several underlying causes of the riot. Commenting on the widespread feeling among Negroes in Watts that police are to be feared and mistrusted, the affiliate said: "The only solution is an independent reviewing agency, adequately staffed and empowered to investigate allegations of police malpractice and award damages if the complaints are found to have merit." Other cities where ACLU affiliates took the lead in campaigning for an impartial police review board are Kansas City, Baltimore and Detroit.

In the absence of review boards, several ACLU affiliates continued an educational campaign to improve police procedures. As the direct result of a meeting of the Upstate New York Division and the cooperation of the State University at Buffalo a course was established for all members of the Buffalo police department in the practical application of U.S. Supreme Court decisions. Another reform was won by the Minnesota Branch, which sponsored a course in constitutional law included in the training program for Minneapolis police officers seeking promotion and rookie policemen. The Connecticut CLU distributed bi-lingual (English and Spanish) pamphlets informing accused of their rights and won the cooperation of major city police departments in circulating the pamphlets statewide.

COURT PROCEEDINGS

Right to Counsel

The U.S. Supreme Court and U.S. Courts of Appeals in two circuits set the stage for continued legal controversy over the admissibility of voluntary confessions as evidence in criminal trials. The issue is an echo of the landmark U.S. Supreme Court decision in the *Escobedo* case, in which the Court reversed a murder conviction based on a voluntary confession obtained while police refused the suspect's request for counsel *(see last year's Annual Report; pp. 76-77).*

Following the high court decision, the California Supreme Court significantly extended the reasoning in *Escobedo.* It struck down two confessions given by Robert B. Dorado, a life-termer at San Quentin Prison because they violated the Constitution on the grounds that Dorado had not been informed of his right to counsel and to remain silent. What particularly agitated law enforcement officials, and made the Dorado case far-reaching, was that Dorado did not request counsel (as Escobedo did), did not raise the issue at his trial, and could not have paid a lawyer. California's Attorney General appealed the decision to the U.S. Supreme Court, asking a limit on the confession doctrine to the facts in the *Escobedo* case. But the high court side-stepped the issue for the time being by declining to review the state Supreme Court opinion ordering a new trial for Dorado.

In the meantime, the U.S. Court of Appeals for the Third Circuit (New Jersey, Delaware, Pennsylvania) handed down a verdict similar to *Dorado* and applied it retroactively. The court for the Ninth Circuit, which includes California, remained silent. And the Court of Appeals for the Second Circuit (Vermont, Connecticut, New York) announced it will consider seven convictions which raise the issue created by *Escobedo.* One case was an appeal from a ruling by New York State's highest court, the Court of Appeals, which held that police do not have to advise a suspect of his right to remain silent or to have a lawyer before making a confession. The New York CLU, which filed a friend-of-the-court brief in the case, said the decision contradicted the spirit as well as the letter of the U.S. Supreme Court majority opinion in *Escobedo.* The affiliate quoted the opinion which said in part: "We have also learned the companion lesson of history that no system of criminal justice can, or should, survive if it comes to depend on its continued effectiveness on the citizens' abdication through unawareness of their constitutional rights." Then the NYCLU asked: "Can it be argued in the light of that statement of principle that the Court, having established the right to counsel, would allow its forfeiture if it were not specifically requested?"

The U.S. Supreme Court's 1962 *Gideon* decision — a landmark ruling strictly requiring all indigent persons accused of violating criminal laws

to be provided with attorneys — was reinforced in a potentially far-reaching case won by the Wisconsin CLU. A state circuit court judge upheld the affiliate's argument that Richard W. Holiday of Milwaukee was improperly denied counsel during preliminary hearings in which the suspect was accused of kidnapping, armed burglary, armed robbery and car theft. Previously the state Supreme Court had held, before the *Gideon* ruling, that publicly-paid counsel for indigent defendants was necessary only for "critical" stages of criminal proceedings and that preliminary hearings did not fit that description. At the same time, however, the Wisconsin Supreme Court did encourage lower courts to appoint counsel at the early stage of investigations. The victory won by the Wisconsin CLU reinforces that right, essential to a fair trial.

Among other ACLU affiliates active in defending the legal rights of indigents were the ACLU of Michigan, which has aided more than 100 persons under new court rules providing state-appointed counsel and free trial transcripts for appellate review purposes (the affiliate is also testing two cases involving the right of counsel in misdemeanor cases); and the Iowa CLU, which finally reaped the satisfaction of a long battle when the legislature authorized a public defender system allowing officials to set up public defender offices for one or more counties, and authorized employment of attorneys as well as investigators. New York State enlarged the rights of indigent defendants by passing bills that allow senior-year law students to act as attorneys for clients too poor to pay a lawyer and require each county to set up a program of free legal services for needy defendants. The ACLU lost an argument before the U.S. Court of Appeals for the Fourth Circuit when the court reaffirmed a decision that an indigent parolee is not necessarily entitled to appointed counsel at hearings to consider the revocation of parole. The ruling was based on the theory that a parole hearing does not assume the importance or formality of a criminal trial, since parole is only a privilege given to a convicted prisoner.

After years of effort, the ACLU finally obtained a new trial for John Simon, who was convicted in Pennsylvania after pleading guilty to five major felonies though he did not have counsel. Simon was 18 at the time; he has an IQ of 59 and claims he could neither read nor write more than a few words. He was not advised of his right to counsel, he declared. Although the U.S. Supreme Court had refused to review Simon's case, an ACLU cooperating attorney obtained a writ of habeas corpus from the Federal District Court. The writ was stayed for 60 days to permit a new trial, but on the basis of an examination made by a psychiatrist chosen by the ACLU, Simon pleaded guilty and was discharged on 10 years' probation.

In Dallas, where the legal complications following President Kennedy's assassination remain as bizzare as ever, the Texas CLU shared in the victory of a nine-month struggle to allow Jack Ruby's family to employ counsel of its choice in a judicial hearing to determine the sanity of the

man who killed Lee Harvey Oswald. Despite the Ruby family's efforts to remove a lawyer from the case, Judge Joe Brown, who presided at Ruby's trial, named the same attorney to represent Ruby at the sanity hearing. The Texas CLU vigorously opposed the move as a violation of Ruby's constitutional right to counsel and was finally successful. Then, in another motion to disqualify Judge Brown from presiding at Ruby's sanity hearing, the Texas CLU engaged in considerable legal maneuvers which resulted in bringing the case before the Court of Criminal Appeals for a decision.

The Arizona CLU is seeking ways to preserve the inviolability of the attorney-client relationship, which is routinely broken by state prison officials who read the mail of all prisoners, even when addressed to a lawyer or a judge. Consequently, inmates do not write as freely as they would like.

Right to a Fair Hearing

In another in the series of decisions extending the protections of the Bill of Rights to state criminal proceedings, the U.S. Supreme Court held that the Sixth Amendment's guarantee of the right of accused persons to confront the witnesses against them applied to state court defendants. The Court announced the doctrine in reversing a Texas conviction, then applied it in reversing an Alabama conviction; in both cases defendants were denied the right of cross-examination, which the Court held was "fundamental" and obligatory under the Fourteenth Amendment's directive that the guarantees of the Constitution must be observed by the states. In its two previous rulings affecting criminal procedures in state courts, the high court held that the Sixth Amendment's right to counsel was obligatory on the states and followed this up with a decision declaring that the Fifth Amendment's prohibition against self-incrimination also was made applicable to the states by the Fourteenth Amendment. In a subsequent decision affecting the latter point, the U.S. Supreme Court in a separate case held that state judges and prosecutors violate the Fifth Amendment's guarantees against self-incrimination if they comment on the refusal of a defendant to take the stand in his own defense. The decision will apply in the six states which do not already forbid such prejudicial comment: California, Connecticut, Iowa, New Jersey, New Mexico and Ohio. The Court left undecided whether its ruling was retroactive, a possibility which could mean a new trial for virtually every prisoner in those six states who did not testify at his trial.

Prodding the states to establish procedures under which prisoners could obtain review of pleas that their federal constitutional pleas were violated in state trials, two U.S. Supreme Court Justices pointed to the rising tide of such pleas to lower Federal District Courts. The comments, by Justices William J. Brennan and Tom C. Clark, were made in concurring opinions concerning a Nebraska plea to overturn a burglary conviction. Only 10 states have adopted specific procedures — by legislation or

court rule. They are: Nebraska, Illinois, Maine, Maryland, North Carolina, Oregon, Alaska, Delaware, Missouri and New Jersey. And in a decision affecting federal criminal procedures, the U.S. Supreme Court held that a defendant in a federal criminal trial does not have a constitutional right to a trial before a judge if the government demands a jury trial.

With some reservations, the ACLU endorsed the proposed Bail Reform Act of 1965 as a "gigantic step" toward the elimination of unnecessary imprisonment, according legislative recognition to the fundamental constitutional principles of the presumption of innocence and equal protection of the laws. The legislation would set these conditions, on any of which material witnesses, or those seeking writs of certiorari, or those who have been charged or convicted may be released from prison: promising in writing to appear as required; executing an appearance bail bond — either unsecured or secured by a 10% deposit; supervision by a probation officer; placement in the custody of a third person; return to jail after daylight hours, or "any other condition which the judge may reasonably require." At the same time, the ACLU offered several improvements affecting bail procedures in testimony before a Senate subcommittee considering the legislation. The Union urged that personal checks be accepted in lieu of cash and clarification of the procedures changing the conditions of a prisoner's release on bail, especially whether he must be notified or given a chance to challenge the basis for imposing different conditions. In another issue concerning bail, the Greater Philadelphia Branch of the ACLU protested the action of several judges who revoked the bail of defendants who appeared without a lawyer so they could qualify as "non-bail" cases for free legal assistance. The denial of the constitutional right to bail is no justification for observing the constitutional right to counsel, the affiliate said.

A major analysis by the Greater Philadelphia Branch of the ACLU singled out abuses of power and corruption among the minor municipal judiciary that were facilitated by faulty practices and procedures. Among the 10 specific proposals made to a special state investigator were three designed to eliminate practices actually contrary to law. The affiliate said these statutory protections force a minor judiciary court to be open 24 hours a day to provide defendants with a speedy hearing; forbid the collection of money for charities from defendants in the form of fines; bar magistrates from requiring bail in less serious offenses specified in a 1961 law. The affiliate's demand for a 24-hour court paralleled a similar demand by the Utah CLU. The affiliate requested the creation of such a court in Salt Lake City, where the absence of a night court and a weekend magistrate to conduct preliminary hearings and setting of bail is depriving many persons of their constitutional rights.

The ACLU and several affiliates were active in defending the rights of mentally defective defendants from infringement by law enforcement officials and other public officials. The South Jersey Chapter of

the ACLU of New Jersey and the Greater Philadelphia Branch obtained the release of an inmate at the Vineland School for the feebleminded who had been held beyond her sentence. The ACLU and the Georgia CLU joined with the lawyer of an escapee from a Texas mental institution in what turned out to be a fruitless effort to stop an extradition hearing that violated the escapee's due process safeguards under the Constitution. In a case that may establish several due process guidelines, the ACLU won an appeal before the U.S. Court of Appeal for the Fifth Circuit that vacated a 15-year sentence against a Mississippi man convicted of larceny and contempt of court. Bobby Gene Johnson had asked for a mental examination before his arraignment on the larceny case but it was refused at the time; at the trial, Johnson was permitted to waive counsel and plead guilty. He was convicted of contempt of court about a month later when he refused to answer questions about the robberies in which he had been involved. The long struggle by the ACLU and cooperating attorneys in Oklahoma finally saved the life of Gerald Pate, whose conviction on a murder charge five years ago raised a storm of controversy over capital punishment *(see below)* and sent serious issues of civil liberties to the U.S. Supreme Court on three occasions. Pate escaped death in the electric chair when a jury found him "presently insane" and removed him from death row to a state mental institution. The Pittsburgh Chapter of the ACLU of Pennsylvania filed a friend-of-the-court brief on behalf of a habeas corpus petition contending that a prisoner was sentenced to life imprisonment without due process under a rarely-used law permitting sex offenders to be sentenced and sent to regular state prisons where they receive no medical care — though the legislation is based on the theory that the prisoners are sick and need treatment, not just incarceration.

In other actions:

¶ The Union filed a friend-of-the-court brief with the U.S. Court of Appeals for the Sixth Circuit supporting Teamsters Union president James Hoffa's appeal from a jury tampering conviction in Chattanooga, Tenn. The brief said the eight-year prison sentence and $10,000 fine should be set aside because the government, in effect, used a local Teamsters Union official, Edward Grady Partin, to spy on Hoffa by reporting conversations and defense strategy to federal officials prosecuting the case. Such spying was an interference with the right to counsel, the ACLU declared. The appeals court sustained the conviction and the issue went to the Supreme Court.

¶ The New York CLU hailed the legislative abolition of "blue-ribbon juries," composed of persons with high educational and economic levels, as a civil liberties victory. Such juries rarely include Negroes or Puerto Ricans and are inclined to be harsh on minority group defendants, as well as being inherently discriminatory in the very fact of their selection. The affiliate also opened a test of extradition procedures which require the asylum state only to determine whether the state seeking extradition has

jurisdiction, not whether the conviction was constitutionally obtained in the first place.

¶ The Illinois Division came to the defense of a 18-year-old youth who was convicted of pandering after a summary trial in which he waived the right to indictment by a grand jury, to counsel, a jury trial and the right to present mitigating evidence. He pleaded guilty and received a relatively harsh sentence, though the youth had never before been convicted of a felony.

Capital Punishment

The ACLU, concluding a two-year review, declared its opposition to capital punishment and pledged a major campaign to seek repeal of the death penalty statute. Just prior to the Union's declaration, New York State passed a bill that eliminated the death penalty for all except persons convicted of killing a peace officer acting in the line of duty and those under life sentence who commit murder in prison during an attempted escape. And not long after the ACLU announced its opposition to capital punishment, the Justice Department, also for the first time, took a similar stand. "Modern penology with its correctional and rehabilitation skills affords far greater benefit to society than the death penalty, which is inconsistent with this goal," a Justice Department official declared.

The policy statement adopted by the ACLU said the death penalty denies equal protection of the laws, is cruel and unusual punishment, and removes guarantees of due process of law. In reversing the Union's previous position, which held that capital punishment did not infringe on civil liberties, the ACLU added that it will seek the commutation of death sentences as a civil liberties matter "until such time as the death penalty is eliminated as a part of law and practice of the United States."

The Union said the death penalty denies equal protection of the law by discriminating "against the poor, the uneducated and the Negro." The statement noted that since 1930, 53.7% of all executed prisoners have been Negroes, even though Negroes are only 10% of the national population. "The disproportionately large number of executions of members of the Negro race indicates that this penalty is often imposed as a result of racial bias," the Union said. Comparing the quality of legal defense available to poor and rich persons, the ACLU pointed out that the poor defendant must rely on volunteer counsel who, while dedicated, cannot give the "kind, range and detail of service" that a wealthier person can afford. And because the death penalty applies mostly to poor people and minority group members, such punishment is not only cruel, but unusual, the ACLU declared. It violates due process protections because of its "fundamental unfairness . . . The punishment does not fit the crime. It is instead directed almost exclusively to the most disadvantaged members of society." The ACLU statement noted that if "society's respect for life denies men the right to take life in order to

prevent or end pain, or because one is tired of life, surely the state should not be permitted to take a life in order to punish for past behavior. . . . To retain the theory that imposition of the death penalty is not cruel is to ignore the persistence of individual and collective conscience which says that death imposed by the force of the state is the ultimate cruelty insofar as the person whose life is being taken is concerned." Then, too, the Union said, the irreversibility of the death penalty renders meaningless any error subsequently discovered. "Thus one who suffers the death penalty and subsequently is found to have been improperly convicted has been denied due process of law."

Corroborating the findings of the ACLU statement, a study sponsored by the Florida CLU compared the convictions and executions of whites and Negroes for the crime of rape and concluded that the death penalty had been used selectively against Negroes. From 1940 through 1964, the study found, the death sentence for the same crime was imposed on 48 Negroes and 6 whites, though 132 whites and 152 Negroes were convicted for rape in Florida. In Georgia, which has executed 400 persons (including 45 teenagers) in the last 40 years, the ACLU affiliate pursued a vigorous campaign to outlaw capital punishment. Ten faculty members and nine student volunteers wrote a 47-page analysis of capital punishment under ACLU auspices which showed that the poor, unskilled and uneducated are those for whom the death penalty is largely reserved. And when the newly-appointed state Attorney General offhandedly rejected the proposals for abolishing capital punishment during a television news interview, the ACLU of Georgia quickly criticized him for so casually dismissing "so serious a subject." Thirteen states have abolished capital punishment; the first was Michigan (1846), then Rhode Island, Wisconsin, Maine, Minnesota, North Dakota, Alaska, Hawaii, Oregon, and — in 1965 — Iowa, West Virginia, Vermont and New York.

News Media

In a 5-4 decision argued in six separate opinions, the U.S. Supreme Court held that television coverage of the swindling trial of Billie Sol Estes violated his right to a fair trial. The Court threw out the conviction, but indicated the deciding vote was cast on the grounds that the Estes trial was "notorious." If the trial had been "more or less routine," Justice John M. Harlan said, he might not have sided with the majority. The majority opinion said the television coverage deprived Estes of his right to a fair trial because the medium, by its nature, makes a fair trial impossible; hence, his due process rights under the Fourteenth Amendment were violated. This was the position of the ACLU in a friend-of-the-court brief, which noted that the trial judge had been "forced to devote an unduly large portion of his time and attention in keeping the situation within manageable bounds, (making) no less than 10 separate rulings" on television coverage. Furthermore, the brief

argued, the presence of TV cameras tends to distract witnesses, prejudice jurors (by seeing persons not called as witnesses and hearing evidence that was ruled inadmissible), and make impossible the selection of an unbiased jury for a possible retrial because of the tremendous adverse publicity the accused already received.

The ruling was a major blow to the advocates of courtroom television, which is barred under Canon 35 of the American Bar Association. Canon 35 states that televising, broadcasting or photographing court proceedings reduces the dignity of the court, distracts witnesses and participants "and creates misconceptions with . . . the public." Developed in the wake of the press coverage of the Bruno Hauptmann kidnapping trial, it has been adopted by all states except Texas and Colorado. And following the U.S. Supreme Court decision, the Supreme Court of Colorado outlawed cameras and microphones in courtrooms unless a defendant consents to their use.

The high court ruling in the *Estes* case came amidst a growing clamor over the free press-fair trial issue. It took on a special urgency with the Warren Commission's criticism of press and prosecutor following the assassination of President Kennedy and Lee Harvey Oswald and has been growing ever since. Symptomatic of the trend, the Attorney General issued Justice Department guidelines specifying the limits of what pre-trial information would be supplied in federal criminal proceedings. The information was restricted to the skeletons of biographical information about the accused, the substance or text of the charge, the identity of the investigative agency and length of the investigation, the circumstances immediately surrounding the arrest — time, place, resistance and weapons seized.

As the Attorney General issued his guidelines, the ACLU and its affiliates across the country were in the thick of the controversy, urging courts, district attorneys and police to withhold statements that may endanger the rights of suspects or persons accused of crimes. The ACLU of Washington State urged the police chief of Seattle to end current abuses by adopting the Justice Department rules; the affiliate also criticized two newspapers for engaging in "trial by newspaper." The ACLU and the Ohio CLU's Cleveland Chapter decided to back the appeal in the U.S. Supreme Court of Dr. Sam Sheppard, convicted in 1954 of the murder of his wife in a sensationally covered series of newspaper stories. "We are mindful of the importance of a free and unfettered press," the Union said, "but we are convinced that where the exercise of that freedom, willingly abetted by cooperative law enforcement authorities, so contaminates the atmosphere that an individual is denied impartial jury deliberation, a society dedicated to justice and fair play — as well as to freedom — must act to protect the accused." The Union pointed out it was not concerned with the guilt or innocence of Sheppard, but with the question of whether he received a fair trial on the charges.

Other cities where the Union's affiliates were actively involved in the issue were Los Angeles, where the ACLU of Southern California charged that statement made to the press by two deputy District Attorneys would interfer with a fair trial of two defendants; and Pittsburgh, where the ACLU of Pennsylvania protested the disclosure of criminal information by police and was criticized for it by the Pittsburgh *Press,* which beat the Union with the familiar dead horse: the ACLU "chronically is concerned with the rights of the accused, rather than the right of the public to be secure in their persons and possessions. . . ." Nevertheless, the Philadelphia Bar Association adopted rules forbidding lawyers, court officials and peace officers from making press statements about pending criminal trials and a similar code is under consideration in Ohio.

Juveniles

Morris Kent was 16 when he was convicted of robbery and housebreaking but found not guilty by reason of insanity on two counts of rape. But when the Washington D.C. youth came before the Juvenile Court, the tribunal waived jurisdiction to the Federal District Court where Kent was treated as an adult and sentenced to 30-90 years in prison. Supporting his appeal before the U.S. Supreme Court, the National Capital Area CLU and 11 lawyers and law school professors argued that the waiver denied the youth his constitutional rights by not specifying the reasons for ceding jurisdiction. Moreover, the brief contended that the boy was denied effective right to counsel, since his lawyer was barred under Juvenile Court procedures from seeing the records and reports used as a basis for the decision.

The Arizona Civil Liberties Union unsuccessfully petitioned the state Supreme Court for the release of 15-year-old Francis Gault, accused by a neighbor of making an indecent phone call and sentenced to a state reform school. The Arizona CLU had demanded a reexamination of the state Juvenile Code, arguing it is "unconstitutional to the extent that it fails to apprise parents and children as to the charges sufficiently in advance of the hearing so they may determine whether to admit or contest petition; nor does it require timely, proper and adequate notice of hearing." While admitting this point, the Arizona high court said that children are not entitled to the same constitutional rights granted adults in criminal cases. Thanks to the intervention of the Greater Philadelphia Branch several children were released from confinement after having been committed, on no evidence whatsoever, by a judge who received an anonymous phone threat. Trying to prove to the public that New Jersey's juvenile courts were not coddling delinquents, the state Supreme Court lifted its ban on press coverage of the proceedings. The judge will decide whether names, photographs and other information will be printed in the interests of educating the public to the problems and procedures of juvenile courts.

EQUALITY BEFORE THE LAW

Spurred to action by a huge civil rights march from Selma, Ala. to the state capital at Montgomery, Congress passed the landmark Voting Rights Act of 1965. That a law was necessary indicated the lack of constitutional guarantees for Negroes in the South. That the law was finally passed—without a filibuster—indicated the measure of progress the civil rights movement had attained by the struggle of recent years.

In the courts, progress was also acheived, but basic changes in the woeful administration of justice in the South are essential. The U.S. Supreme Court upheld the Civil Rights Act of 1964 and overturned the convictions of thousands of peaceful demonstrators; nevertheless, the question whether private property owners may be picketed remains to be settled. The Mississippi Supreme Court overturned convictions of three Negroes on the grounds that Negroes were systematically excluded from the juries, but the decisions served to underscore the contrary practice of discrimination in trials at which whites accused of racial crimes, including murder, were quickly acquitted by all-white juries. Months before the federal government pledged an effort to correct the scandalous administration of Southern justice, the ACLU opened its own campaign to reach the same goal. A long fight was anticipated.

Explosive evidence that racial discrimination was by no means confined to the South came with a five-day riot in Watts, a Negro ghetto in Los Angeles. The reverberations were quickly felt throughout the country and the general conclusion pointed to the fact that the North's laws against racial bias in housing, jobs and education were poorly enforced guarantees of the Negro's basic demands. Until these needs are satisfied, warned the most astute public officials, any city can expect its own Watts, at any time.

The federal government used its formidable power of the purse to pressure school boards North and South into eliminating segregation in education. Whether the issue was de facto *segregation, as in Chicago, or deliberate defiance of the U.S. Supreme Court's insistence on "deliberate speed," as in the South, the U.S. Office of Education threatened to cut off federal aid unless bias in the classroom was ended. Meanwhile, token integration was introduced peacefully in dozens of local Southern school districts where it was scarcely imaginable a few years ago. The pace was still slow, but hopes rose that federal pressure, along with increasing acceptance of the inevitable, would speed up progress toward the aims set forth by the U.S. Supreme Court 11 years ago.*

The Federal Scene

Congress

Exactly 104 years after Abraham Lincoln signed a bill freeing slaves forced into the Confederate Army, President Johnson signed the historic Voting Rights Act of 1965 and opened the door to profound political changes in the Deep South. Without waiting for action from Congress, about one million Negroes signed the voting lists between the years 1958-1964. With passage of the new legislation more than two millon more are expected to exercise their rightful franchise, until now blocked by a welter of discriminatory state legislation, harassment and violence. Initially, voluntary compliance with the federal law was "truly remarkable," the President said. Moving swiftly to enforce the Voting Rights Act, the Justice Department opened the first federal registration offices since Reconstruction in nine Southern counties; Negroes lined up for hours to sign their names to voting rolls. After the first burst of response, however, the pace of Negro registrants slowed considerably to about half of what had been expected. Among the reasons for the disappointing results was the smaller number of federal voting examiners assigned by the Justice Department to implement the law than had been expected by civil rights groups, limited registration periods and delaying tactics by some county registrars.

Under the law literacy and other tests found to be discriminatory were suspended and federal examiners were authorized to register Negroes to vote throughout Alabama, Georgia, Mississippi, Louisiana and South Carolina; the law also applied to 34 counties in North Carolina and Virginia, all of Alaska, and single counties in Maine, Arizona and Idaho. The measure applied new criminal penalties for attempts to prevent qualified persons from voting, or threatening persons assisting prospective voters. It also made it possible for many Puerto Ricans in New York to vote by waiving the state's English-language literacy requirement for those who have completed six grades of education in Puerto Rico's Spanish-language schools.

Although Congress failed to prohibit the use of the poll tax in the Voting Rights Act, that perennial obstruction to racial equality in voting may be nearing the end of its existence. On the day the bill was signed into law the Department of Justice filed suit under the Fourteenth and Fifteenth Amendments in Mississippi, Alabama, Texas and Virginia to prevent further use of the poll tax as a precondition to voting. The ACLU is waging a number of legal offensives against the device which, though outlawed by the Twenty Fourth Amendment as far as federal elections are concerned, remains an obstacle to racial equality in voting for state and local officials.

The major ACLU effort was made in Virginia, where the National Capital Area CLU successfully petitioned the U.S. Supreme Court to review the state's poll tax requirement for voting in state and local

contests. Previously, the high court unanimously struck down a Virginia law apparently designed to circumvent the Twenty Fourth Amendment by requiring voters in federal elections either to file a residency certificate or pay a poll tax. The maneuver was unconstitutional, the Court declared, because the substitution of the poll tax for a residency requirement imposes a penalty on the right to cast a federal ballot.

The Union also joined the government's challenge in a second Mississippi voting rights case by filing a friend-of-the-court brief with the U.S. Supreme Court. The suit raised a broad range of constitutional issues in attacking the state's discriminatory voting laws. The principal targets were the literacy and constitutional interpretation requirement, the "good moral character" qualification and the poll tax. Hoping to avoid defeat in the high court, however, Mississippians voted overwhelmingly for a state constitutional amendment wiping out traditional barriers against Negro voter legislation. The referendum, viewed as a victory for moderates in the state, put Mississippi technically in compliance with the Voting Rights Act. The drastic reform also served to confirm the charges raised in the ACLU brief, namely that the old statutes "intentionally discriminate on the grounds of race and implement Mississippi's long-standing legislative policy of disenfranchising Negroes."

As the job began to enforce the Voting Rights Act, work continued on enforcing the 1964 Civil Rights Act. A report to the President after one year of the law's operation noted that while compliance with the letter of the law was highly encouraging, "the next step is to achieve compliance in spirit." The report urged a concerted attack on "the psychologically imprisoning aspects of prejudice" and noted a "curious" rise in hostility to Negro gains on the part of whites in the North. The main thrust of the Civil Rights Act empowered the federal government to cut off funds to schools, hospitals, farmers, road builders and other firms and agencies which discriminate. The threat was most effective as applied to school districts in the South (see p. 94), however. The Civil Rights Commission found widespread discrimination in the administration of federal farm programs in the South, ranging from education to conservation. And the National Guard Bureau, an agency of the Defense Department, issued stern warnings to guard units that in effect threatened to disband the unit if it refused membership to Negroes.

The ACLU backed a bipartisan resolution aimed at blocking the swearing-in of Mississippi's five-man delegation in the House of Representatives. The move, introduced when the 89th Congress reconvened in January, 1965 lost by a vote of 276 to 148, but it focused public attention on what the ACLU termed "the premise of the challenge — that systematic and officially induced denial of voting rights have permeated the entire machinery by which these men were elected." The formal petition to bar the Mississippians was filed with the House by

the Mississippi Freedom Democratic Party, the same group which challenged the seating of the state's delegation to the Democratic Party's Presidential convention in the summer of 1964.

Following up its initial effort to block the Mississippi House delegation, the ACLU renewed the drive by circulating a memorandum to every Congressman and signed by 227 lawyers in 41 states which supported the challenge on the grounds that Negroes were systematically excluded from the voting process in Mississippi in violation of the Fourteenth Amendment's guarantees of equal protection of the laws and the Fifteenth Amendment's prohibition against abridging the right to vote because of "race, color, or previous condition of servitude." The ACLU urged the House to act favorably on a resolution to unseat the Mississippi delegation, after months of legal sparring finally resulted in a hearing on the issue by the House Administration Committee. The House refused to approve the resolution, but adopted the Administration Committee's motion promising to look more closely at future election challenges.

The Courts

The U.S. Supreme Court unanimously upheld the public accommodations section of the Civil Rights Act, ruling that under the commerce clause of the Constitution Congress had ample power to bar racial discrimination when it might affect interstate commerce. Answering the argument that the commerce power was inappropriate because the real complaint was moral, the opinion cited previous cases upholding the commerce power to ban interstate gambling, prostitution and misbranding of drugs, among other examples. "That Congress was legislating against moral wrongs in many of these areas rendered its enactments no less valid," the Court said.

At the same time, in a separate decision, the tribunal held that the Civil Rights Act wiped out all pending state prosecutions of demonstrators who had peaceably tried to desegregate establishments covered by the law; an estimated 3,000 persons were affected by the ruling. But the 5-4 opinion was narrowly drawn, emphasizing the peacefulness of the demonstrations at businesses now subject to the Civil Rights Act. It reflected the recent history of the high court's attempt to come to grips with whether prosecutions for seeking service in privately owned accommodations, or other civil rights protests, violate the "equal protection" clause of the Fourteenth Amendment which prohibits state discrimination. In other words, what may civil rights demonstrators do legally in staging public protests, and what, if any, protests can be legally prohibited? The question came up in the appeal of the Rev. B. Elton Cox, who was convicted under two Louisiana laws for demonstrating outside a Baton Rouge courthouse. One was a breach of the peace law; the other, modelled after a federal statute, barred picketing near a courthouse. Cox's convictions were reversed on both counts, but

again by a 5-4 vote and again on narrow grounds that did not settle the basic legal issue. Similarly, when a Mississippi anti-picketing law came before the high court for review, the tribunal issued an unsigned order instructing a federal judge to consider enjoining state officials from enforcing the statute against civil rights demonstrators. The order merely cited the Court's previous decision in the *Dombrowski* case (p. 52), which held unconstitutional a Louisiana anti-subversive law and said a federal judge could enjoin its enforcement by the state. The U.S. Supreme Court action drew an angry dissent from Justice Hugo Black, who had also dissented in the *Cox* case. He warned the Court against relegating the states "to the position of mere onlookers in struggles over their streets and access to their public buildings."

Within weeks, all-white juries in Lowndes County, Ala. freed men accused of killing two civil rights workers in the summer of 1965; Thomas Coleman was acquitted of a manslaughter charge in the death of Jonathan Daniels, a young Episcopalian minister, and Collie LeRoy Wilkins was acquitted of killing Mrs. Viola Liuzzo. The verdicts were widely deplored as a travesty on justice and pointed up the need for a major drive launched by the ACLU to end the exclusion of Negroes from jury service and other discrimination in the administration of the law. The campaign, termed "Operation Southern Justice," will attack every aspect of discrimination in jury boxes, courtrooms, court employment and jails of the Deep South. The importance of the issue was evidenced by the decision of the U.S. Court of Appeals for the Fifth Circuit to have all nine judges hear a number of cases involving the systematic exclusion of Negroes from state and federal court juries. At the time, the ACLU already had six jury exclusion cases before federal courts in Alabama and Mississippi and the Union's Southern Regional Office was expected to file others. In addition, the Louisiana CLU filed an appeal on behalf of Edgar Labat, a Negro who has had a death sentence hanging over his head for 12 years — longer than Caryl Chessman. Labat and another man were sentenced to death in 1953 for allegedly raping a white woman, but the affiliate said they never should have been jailed in the first place since the odds were "less than one in a million" that the jury was impartially selected. "The guarantee of a fair trial is meaningless unless the defendant is tried by a jury from the community as a whole, not selected portions," the ACLU declared in announcing "Operation Southern Justice." "A break with present jury practices could lead to fairer verdicts, not the all-too-often whitewash verdicts of southern juries."

As the drive got underway the U.S. Supreme Court raised what may turn out to be a roadblock in the path of efforts to choose jurors without regard to race. It held that Robert Swain was not denied a fair trial in Alabama on a rape charge because 10-15% of the names drawn for jury service in Talladega county were Negroes; in the process of picking the Swain jury, six Negroes were in the panel from which jurors were

picked, but the prosecution exercised its right to bar them without giving a reason. The ACLU urged the high court, unsuccessfully, to reconsider its decision in a friend-of-the-court brief that warned of a grim alternative: "a dead halt to the improvement of the administration of justice in the Southern states." The Union pointed out that Negroes eligible for jury service in the county constitute 26% of the eligible population, but only half that number are selected for jury panels. No Negro has served on a petit jury in the county for 15 years, the ACLU said. The practical issue confronting attorneys in systematic exclusion cases "is to determine the point at which the state has the burden of explaining the disparity between the number of Negroes in a county and the number who have been called or served on juries," the Union declared. "Common sense should inform us how to allocate that burden." Among the jury exclusion cases brought by the ACLU was a suit seeking to postpone all jury trials in Lowndes County until there had been a bid for a restraining order by a federal district judge. The Union filed an appeal directly with U.S. Supreme Court Justice Hugo Black which was denied. Another suit was filed on behalf of four Negroes in Birmingham and Bessemer, Ala. in the U.S. Court of Appeals for the Fifth Circuit. "The jury system is the bulwark of liberty," the ACLU brief said. "It has been weakened in a proportion that equals, almost exactly, the extent to which it has been perverted by the exclusion from it of racial and other groups." The brief noted that in view of the protestations of fairness by Bessemer officials, it must have been a one-in-a billion miracle that only one Negro was called to serve on a Bessemer grand jury in a 17-year period.

The Union's general contention was emphatically confirmed by the Southern Regional Council, a non-partisan organization, which reported after a thorough survey that Negroes were almost totally excluded from federal court jobs and inadequately represented on federal juries in 11 Southern states. Praising the report, the ACLU said a major breakthrough in the battle against discrimination could be achieved in the South if the federal government acted in accordance with the need so obviously demonstrated. Even more emphatic backing for the ACLU's drive for the non-biased selection of Southern juries came from a Federal District Court in Mississippi, which reversed the death penalty convictions of two Negroes, George A. Gordon and William Smith Jr., on the grounds of systematic exclusion of Negroes from the juries. The ACLU, which defended both men, hailed the decision as a significant advance against discriminatory jury practices. In discussing the Smith case the court observed that although 62% of the county population available for jury service were Negroes, no Negroes were on jury lists for eight of 11 years, and Negroes accounted for only 1% of the jury lists in the remaining three years. Earlier in the year, the Union won a similar case, for the same reason of jury selection bias, when the Mississippi Supreme Court threw out the conviction of William B. Harper, chiefly

because "token summoning of Negroes for jury service" would not meet federal constitutional requirements of equal protection of the laws. Harper, who was sentenced to a life term for attempted rape of a 16-year-old white girl, won a new trial also because police did not take him before a judicial officer immediately after his arrest and because legal counsel was not present at the time he gave a written confession.

The ACLU defended Harper at his trial and in his appeal to the state Supreme Court. Commenting on the decision, the Union praised the court for facing the responsibility "to correct the flagrant departures from constitutionalism that marks the administration of criminal law in Mississippi where Negroes are concerned. . . . Since gross under-representation of Negroes on juries in all the 82 counties in the state is notorious, and as the question is more frequently raised on behalf of Negro defendants and pursued through the courts, reversals we hope will become a matter of course."

Job Discrimination

Concluding two decades of effort by the ACLU and other civil rights and Negro organizations, the first national law forbidding discrimination in private employment went into effect. It was Title VII of the 1964 Civil Rights Act, whose operation was postponed one year by Congress when it passed the Act in order to provide time for compliance and to enable the newly-created Equal Employment Opportunity Commission time to get organized. Title VII may have many loopholes, and the Commission has no enforcement powers, yet it potentially has the power to open the way to major gains by racial groups, religious minorities and women.

Women's Rights

In the first batch of complaints under the equal employment provisions of the Civil Rights Act, about 20% of the cases involved charges of discrimination based on sex. Officials were surprised that no woman complained she had been denied a managerial or executive job; instead most of the complaints involved blue collar workers — departmentalized plant seniority based on particular jobs, for instance, that may result in earlier job layoffs for women than for men. Not yet an issue is what Washington wags have labeled "the bunny problem" — that is, what may happen under the law if a male applies for a job in a Playboy club, or a woman applies for a job in a Turkish bath. But even without those exotic complications, the matter of enforcing the law is "terribly complicated," the Commission conceded.

Indian Rights

Testifying before a Senate Subcommittee on Constitutional Rights, the ACLU praised six proposed bills to safeguard for members of Indian

tribes the rights and liberties assured to all citizens under the Constitution. "The Indians have for too long occupied a no-man's land with regard to their rights as Americans," the Union said. "Many of the problems have been connected with the operation of some tribal courts and their failure to accord procedural due process to defendants." In the case of Madeline Colliflower, for example, the U.S. Court of Appeals for the Ninth Circuit held that a tribal court on Montana's Fort Belknap reservation violated due process rights under the Fifth Amendment when it sentenced Mrs. Colliflower without giving her a chance to defend herself at a trial. A member of the Gros Ventre tribe of the Blackfoot Indian nation, she had been supported in her appeal by the ACLU. The court held that while tribal courts are, in some respects, autonomous, they must observe fundamental constitutional guarantees of fairness. In the case of Mrs. Colliflower, the court said, "the record is devoid of evidence of any crime whatever," though she was charged with pasturing her cattle on someone else's field. The absence of evidence was one example of a glaring lack of due process in the case, the ACLU brief declared. In addition, "no witnesses were examined or cross-examined," and Mrs. Colliflower was "subjected to criminal punishment at the unbridled caprice of the magistrate . . . she was . . . tried by a single person who acted as prosecutor, 'witness' and trier of fact," the Union argued. The Minnesota CLU initiated a new program focusing attention on the denial of constitutional rights to Indians. The major violations are police brutality, imprisonment on misdemeanors without bail or speedy trial, and imprisonment without bringing a charge. The affiliate obtained the release of an Indian who had been held for eight weeks on a misdemeanor charge without a hearing or trial.

Condemning possible interference with a basic right of citizenship, the ACLU urged the Justice Department to avoid a blanket prohibition on the participation by government lawyers in non-partisan political and educational activities. Raising the objection of "conflict of interest" is unwarranted and may be unconstitutional, the Union declared. The Union position was made clear in a memorandum submitted to the Justice Department interpreting a 1962 federal statute that sought to regulate when government employes may contribute their services to volunteer groups. Indicating informal approval, a department representative said the ACLU memorandum was "considered sound."

STATE AND LOCAL DEVELOPMENTS

Progress and paradox marked the stepped-up drive for racial equality. Never were more achievements accompanied by such violence. The massive civil rights march from Selma, Ala. to the state capital in Montgomery, climaxing months of mass arrests, police brutality and harassment, helped speed passage of the historic Voting Rights Act. More than a thousand full-time civil rights workers fanned out throughout the

South, where previously only a handful were at work in a few states. But new laws to prevent discrimination could not prevent the searing riot that took 35 lives in Los Angeles, the havoc on Chicago's West Side or a peaceful demonstration in Springfield, Mass. to protest alleged police brutality. And the presence of a small army of civil rights workers in the South inspired extremists to new bombings and killings, while at the same time a white leader in Gainesville, Ga. declared: "The war is over. The Negroes and the country have won it." But, he added: "We and they are doing a poor job of running the peace."

The peace was, indeed, far from won, and in the continuing battle for racial justice the ACLU and its affiliates, North and South, were in the thick of it. In a letter to the U.S. Attorney General the ACLU called for immediate action to improve the FBI's investigation of civil rights complaints and its enforcement of civil rights laws. "Since the list of violations are huge and proportionately arrests and prosecutions are few, we do not think our criticism is unjustified," the Union said. Recognizing the basic stumbling bloc as the close working relationship between the FBI and local police officers, the ACLU made two specific recommendations: (1) the Attorney General should issue explicit instruction making it clear that the FBI considers the investigation of civil rights complaints its first order of business and (2) amend present federal civil rights laws to make clearer the grounds on which local law enforcement officials can be arrested and convicted for depriving persons of their civil rights. Acting on its own to protect the legal rights of those who seek to end segregation in the South, the ACLU announced the adoption of the Lawyers Constitutional Defense Committee as an arm of the Union. The LCDC was formed in the spring of 1964 by seven major civil rights and human relations agencies to provide much-needed assistance in defending civil rights workers, mainly in the South *(see last year's Annual Report, p. 85)*. The first two field offices of the group were established in Mississippi and Louisiana; other offices are in Alabama, northern Florida and Tennessee. More than 300 cases were handled by LCDC lawyers covering such areas as harassment arrests of civil rights workers, assault by police and white citizens, and violations of defendants' legal rights in arrest, pre-trial and trial procedures.

Demonstrations

Led by the Rev. Martin Luther King, 3,200 Negroes and whites, many of them travelers from all over the country, began a dramatic 54-mile march from Selma to Montgomery to protest voter discrimination. The march inspired similar demonstrations in dozens of cities, and the total impact was remarkable. The march, finally carried out with heavy protection of troops, was the last act of a struggle that had gone on for months, and in which the ACLU's new Southern Regional Office was active throughout. The office agreed to defend 72 white Alabama civil rights protesters — the first such pro-integration demonstration in the

Deep South in living memory. It also advised Northern doctors who arrived in Selma that under Alabama law, and contrary to the advice of local physicians, they could render aid to the injured. The ACLU urged the government to arrest and prosecute police officers responsible for breaking up a march in Selma with tear gas, clubs and whips. And when the march to Montgomery was over, the Union joined with the rest of the nation in condemning the murder of civil rights worker Mrs. Viola Gregg Liuzzo by Ku Klux Klansmen — the second killing of a civil rights worker in connection with the Selma protest. Following the murder, the Michigan ACLU sharply protested the dispatch of a secret dossier on Mrs. Liuzzo that had been complied by the Detroit police department and which sent it to officials in Alabama. The affiliate condemned both the dossier and the fact it was transmitted. The Union hailed the new voting bill sent to Congress in the wake of the march. Praising President Johnson's "sense of commitment to the moral and constitutional right" of Negroes to vote, the ACLU urged Congress to act promptly. It did.

The Lawyers Constitutional Defense Committee of ACLU, through the generosity of an anonymous New England businessman, posted $45,000 in cash bonds to obtain the release of some 400 civil rights demonstrators arrested in Jackson, Miss. The large sum of money was required because surety companies in the state have long refused to write bail bonds in civil rights cases. The demonstrators were arrested during 10 days of marches and other protests against the special session of the Mississippi state legislature; yet even while confined under heavy guard behind barbed wire in a stockade in the Jackson fairgrounds, prisoners and lawyers reported brutal treatment by poilce.

Months of tension and sporadic violence rocked Bogalusa, La., where Negroes launched a well-organized drive for jobs and against racial discrimination in public facilities. Open Ku-Klux-Klan violence, carried on with police indulgence, created a large-scale civil rights crisis. The LCDC filed a suit with the Federal District Court to enjoin interference with and harassment of lawful demonstrations and picketing; and, with the aid of the U.S. Attorney General, obtained contempt convictions against the Commissioner of Public Safety, the Chief of Police and several policemen for violation of the injunction. The Department of Justice also was successful in a suit to enjoin the KKK's activities in Bogalusa. In legal actions by the Louisiana CLU, the affiliate won a suit to desegregate the Bogalusa charity hospital, defended a Negro leader who was charged with theft immediately after he became prominent in the local civil rights movement, and defended a doctor from the Medical Committee on Human Rights who was arrested for violating an ordinance requiring segregation of races in places serving alcohol. The charges were dismissed and the ordinance subsequently repealed.

On the state-wide level in Louisiana, the ACLU urged the Justice Department to follow a more vigorous policy of releasing information

concerning attacks on Negroes and civil rights supporters in the state. The promise of prompt action, said the Union, backing up an earlier request by the Louisiana CLU, may deter segregationists from commiting new acts of violence. "To remain silent is to create just the opposite effect," the Union said. The ACLU was not unaware that the disclosure of unevaluated FBI material was itself "an infringement of civil liberties" leading to "trial by newspaper." However, the Union added, "this does not mean that the federal government must remain silent except for an original announcement that incidents are under investigation." The ACLU warning should have been heeded by the Mayor of New Orleans, where a series of nighttime bombings damaged dwellings, stores and offices of persons connected with the civil rights drive; the automobile of the Louisiana CLU chairman was also attacked. The ACLU affiliate urged passage of an anti-bombing ordinance with stiff penalties as one way to halt the wave of terror. It also urged the Mayor to make a forceful public denunciation of the bombings to counter the impression some citizens may have that the city tolerates such "senseless attacks." In fact, added the ACLU, the Mayor's failure to speak out "may already have given comfort to the perpetrators of these dastardly crimes." Amidst the violence, there was one glimmer of progress: Louisiana Governor John J. McKeithen formed the first statewide biracial commission, composed of 21 whites and 21 Negroes, as an advisory group to maintain lines of communication between the races.

"I want to warn you . . . that the clock is ticking," President Lyndon Johnson said. Riots by Negroes can erupt in any city where people "feel they don't get a fair shake, [where] justice is not open to them." In 1965 the alarm went off in the Watts section of Los Angeles and it rang without letup during five days of fires, sniping and looting that resulted in the arrest of 2,200 persons and fire damage near $200 million. It was not a race riot in the ordinary sense — no whites were involved. But as an expression of what psychologist Kenneth B. Clark called "the rage of the rejected" it was a racial protest of profound significance. The ACLU of Southern California cited the explosion, which was touched off by the unnecessary use of force by a white policeman making an arrest, as further reason for establishing a police review board in Los Angeles. Sharing the view of most analysts, the affiliate pointed out that the deeper grievances were in the realm of jobs, housing, and education. "The lesson for other cities is to act now on these justified grievances," the ACLU of Southern California said, "and not wait until the dam bursts." More than 4,000 persons were arrested in the outbreak, confronting the ACLU affiliate and other groups with the monumental problem of rounding up lawyers to make certain the rights of the arrested were observed. The District Attorney at first opposed the release of any prisoner on bail, but the courts generally upheld the ACLU position that the Constitution guarantees the right to reasonable bail at all times, whether or not conditions of emergency prevail.

Similarly, the affiliate sought a reduction of excessive bail ($1,500 in 1,000 misdemeanor cases) and the setting aside of excessive jail sentences.

Legal Harassment

The contempt of court convictions of two Negro Virginia lawyers, defended by the ACLU, were reversed by the U.S. Supreme Court. The Union argued that the convictions of Leonard W. Holt and Edward A. Dawley Jr. "must be viewed as punishment . . . for their being civil rights lawyers, as well as for anything that occurred in the courtroom." The high court evidently thought so, too, in an opinion which said the lawyers "have been punished by Virginia for doing nothing more than exercising the constitutional right of an accused and his counsel in contempt cases such as this to defend against the charges made." The convictions grew out of a libel case in which Dawley declined to answer a question put by Circuit Court Judge Carlton E. Holladay. He was promptly charged with contempt and when Holt, who represented him, later asked for a change of venue, he too was charged with contempt.

Tobias Simon, a Miami attorney and general counsel of the Florida CLU, has won a second battle against members of the legal profession in the state who sought to punish him for his defense of hundreds of civil right demonstrators. In 1964 a contempt of court conviction in Tallahassee was dismissed *(see last year's Annual Report, pp. 90-91);* the charge grew out of Simon's defense of civil rights advocates in the city. In 1965, a grievance committee of the Florida Bar Association exonerated Simon of accusation by two St. Augustine lawyers that he "solicited business" and thus violated legal ethics when he represented hundreds of demonstrators in that city without fee. A number of eminent Florida attorneys came to his defense, including Cody Fowler, former president of the American Bar Association, who acted as Simon's counsel.

Other Issues

The U.S. Supreme Court unanimously annulled a Florida law forbidding cohabitation between Negroes and whites. "There is involved here an exercise of state police power which entrenches upon the constitutionally protected freedom from invidious discrimination based on race," the opinion declared. While not ruling directly on the constitutionality of laws banning interracial marriage, the Court cast doubt on the continued validity of such statutes which remain on the books in 18 states. They are 11 Southern states plus Delaware, Maryland, West Virginia, Kentucky, Missouri, Wyoming and Oklahoma. The Indiana miscegenation law was repealed following hearings at which the Indiana CLU testified against the statute. The National Capital Area CLU supported a test of Virginia's ban on interracial marriage before a Federal District Court. The court referred the case back to the state but made it

clear it would exercise jurisdiction if the state courts tried to evade a test of law promptly. And in Oklahoma, the ACLU filed a friend-of-the-court brief before the state Supreme Court challenging the miscegenation laws on the grounds that they violate the equal protection and due process rights guaranteed under the Fourteenth Amendment. The Union said that marriage is an inalienable right which can not be tampered with by the state. The view that it is a social right, rather than a civil right, which underlies the Oklahoma laws, is fundamentally inimical to the precepts of the Constitution, the ACLU brief declared. The state Supreme Court rejected the Union's brief without dealing with the constitutional issues; instead, the Oklahoma court denied a marriage license on the ground that the prospective husband was only 19, and did not have parental consent. When case came back to the high court, it held that the miscegenation statute was not unconstitutional.

In other actions by the ACLU and its affiliates:

¶ Discrimination in a Miami bar and grill brought about the integration of the Dade County Jail, in a case brought by the Florida CLU. James Ferguson was arrested when he was refused service, and sent to the segregated jail. The affiliate took the case to a Federal District Court, which ordered the jail integrated.

¶ The ACLU and the ACLU of Georgia charged that a judge's denial of a waiver of jury trial deprived a white civil rights worker in the South of her constitutional rights. The charge was made in a friend-of-the-court brief filed with the U.S. Court of Appeals for the Fifth Circuit which asked for the reversal of a perjury conviction of Joni Rabinowitz, 22, who took part in civil rights demonstrations in Albany, Ga. Subsequently the government moved to void the conviction because of the exclusion of Negroes from the jury panel.

¶ A Federal District Court jury acquitted the Mayor of Dearborn, Mich. and two top police aides of charges they conspired to withhold police protection from a household menaced by a mob in a racial demonstration. The Metropolitan Detroit Branch of the ACLU of Michigan brought the suit. Still pending is a $250,000 damage suit filed by the affiliate on behalf of Giuseppe Stanzione, against the Mayor and 18 policemen. The crowd mistakenly thought Stanzione had sold his home to a Negro and that started the rampage.

GENERAL DEVELOPMENTS

Education

Faced with the choice of losing federal aid or desegregating their public schools, all but about 150 of the South's more than 2,000 public school districts chose to make a start toward desegregation. The decision was forced by the U.S. Office of Education, acting under Title VI of the Civil Rights Act, which prohibits giving federal funds to any public school district practicing racial discrimination. Education Commissioner Francis

Keppel required a "good-faith substantial start" by desegregation of at least four grades in the 1965-66 school year. By the fall of 1967, all 12 grades must be desegregated, he declared. Governor George Wallace of Alabama sought to defy the order, but a revolt by a majority of the state's school boards brought general compliance. In Georgia, a letter was signed by 331 prominent citizens, expressing support for the Office of Education ruling.

The federal action was expected to double or triple last year's enrollments of 66,135 Negroes — about 2.3% of the South's school-age Negroes — with white children. More significant than the increased number, however, was the fact that for the first time many rural and small-city schools opened their doors to Negro children. No incidents of violence were reported. In Neshoba County, Miss., where a year ago three civil rights workers were slain, 10 Negro children began attending classes with whites; when a white high school senior poked a Negro student the principal whacked the white youth with a well-worn pine paddle and no further trouble occurred. Bogalusa, La., the scene of racial strife, admitted seven Negro pupils. And in Robeson County, North Carolina, where seven years ago local Indians routed the Ku Klux Klan, 110 Negroes enrolled in previously all-white schools. The school districts that refused to comply with the Office of Education order were among the poorest, most isolated in the region. The group included the wealthiest suburb in Texas, however — Highland Park, near Dallas, which has one school-age Negro.

The impact of the Civil Rights Act and the U.S. Office of Education may soon be felt in the North, too. Though the issue in the North is *de facto* segregation resulting from housing patterns and school district boundaries — rather than exclusion based on race — a government spokesman declared: "We can't close our eyes to discrimination." The Office of Education planned to launch inquiries in public schools in Boston, San Francisco, and Chester, Pa. In Chicago the Office of Education initially cut off federal funds, charging a pattern of racial imbalance in the schools but later restored them. Though the ACLU maintains that under the equal protection clause of the Fourteenth Amendment local school boards have an affirmative obligation to abolish *de facto* segregation, legal authorities and school boards differ on the question. A final ruling will eventually have to come from the U.S. Supreme Court, which so far shows no inclination to settle the matter. For the third time, the high court let stand an appeals court ruling on *de facto* segregation which in this case allowed Kansas City, Kan. to continue with its existing racial imbalances in the schools. The appeals court had said that while the Constitution prohibits the segregation of pupils by race, it does not command integration. Previously the high court had let stand decisions upholding New York City's attempt to better its racial "mix" and a Gary, Ind. school board decision to do nothing about *de facto* segregation.

Elsewhere in the North, marches and mass arrests finally brought a change in Chicago, where an integration aide was appointed to the school board over the strenuous objections of Superintendent Benjamin C. Willis. The showdown came after tension rose to dangerous levels and an influential group of business leaders called for a "bold stance" by the city in favor of school integration — and quickly. The New Jersey Supreme Court, in a far-reaching decision, ruled that communities must try to disperse Negroes throughout their school system, not merely try to reduce imbalances in schools that are nearly all-Negro. The New York CLU filed a friend-of-the-court brief on behalf of the Rev. Milton A. Galamison who fought an injunction to bar his activities in organizing a school boycott as a civil rights protest. The affiliate called the injunction "an outrageous effort to cut off freedom of speech and assembly." The Civil Liberties Union of Massachusetts, jointly with major religious organizations, filed a friend-of-the-court brief with the U.S. Court of Appeals for the First Circuit supporting a desegregation order affecting elementary and junior high schools in Springfield, Mass. The CLUM brief attacked the city school committee's opposition to the order, noting that feeder patterns based on Negro housing ghettoes perpetuated segregated schools. Noting the illusion that the inadequacy of segregated education is a phenomenon limited to the South, the brief declared that although "explicit racial classification may emphasize and aggravate the inferiority of the separated school . . . it is ultimately the caste character of such a school that makes it unequal" and contrary to the protections of the Fourteenth Amendment.

Housing

Since a 1962 Executive Order against discrimination in housing has hardly made a dent in the bulwark of bias, the ACLU urged an expanded, revitalized effort to put more power behind the government policy. The Union noted that the Order applies to a mere 10% or less of federally-aided housing; it thus urged the Administration to recognize "the totality of the problem by dealing with it in a total manner." This would require (1) expanding the ban on housing discrimination to all federally-aided banks and lending institutions, including commercial and national banks and savings and loan associations which are chartered, regulated or insured by agencies of the federal government; and (2) extending the Executive Order to cover retroactively all federally-aided housing built or contracted for prior to November 20, 1962, when the Order was signed.

A ruling by a Superior Court judge in California that the controversial Proposition 14 cannot be constitutionally enforced to promote racial bias in housing was a partial victory for the ACLU in its battle to nullify the measure in the courts. The case involved a landlord's attempt to terminate a tenancy solely on the grounds of race, which the court found unconstitutional. But in another case, the same judge held against a

Negro physician who claimed a landlord refused to rent him an apartment on the grounds of race. The judge ruled in favor of the landlord, stating the Proposition 14 was constitutional if not used openly on the basis of race. The ACLU of Southern California, which brought both cases will appeal them both. Meanwhile, as the ACLU and its affiliates in Northern and Southern California continued to mobilize efforts to topple Proposition 14, an interesting legal test shaped up in the San Francisco area. There, a three-judge court representing the municipal court and the county confessed to "serious doubts" about the constitutionality of the measure in the light of the equal protection clause of the Fourteenth Amendment and the Thirteenth Amendment's "abolishing (of) slavery and its incidents." Eventually however, a U.S. Supreme Court decision will probably be necessary to decide the final fate of Proposition 14, which nullified most California laws barring discrimination in housing when it was approved in a statewide referendum in November, 1964.

Similar moves for referendums against fair-housing legislations were killed in Indiana, Nevada, Texas, and Rhode Island. Indiana, Rhode Island, Maine and Ohio passed legislation barring discrimination in private housing, bringing to 16 the number of states with such legislation. The Indiana law covers both commercial and residential properties, sales and rentals, and vacant land. Indiana had previously barred discrimination in public housing and urban renewal projects. The Rhode Island law also represents an extension from public housing to private housing. Moreover, the State Commission Against Discrimination is empowered to initiate complaints on its own motion. The ACLU of Michigan moved in court to uphold the right of Ann Arbor to enact its fair housing ordinance. The state contended that under the new state constitution, which created a Civil Rights Commission, effective authority in the field has been pre-empted by the state. The affiliate argued that municipalities could act consistent with the requirements of the state constitution on matters within their jurisdiction. Two state Supreme Courts upheld anti-discrimination bills affecting housing. One was the New Jersey tribunal, which approved a 1961 state law; the other court was Ohio's, which upheld Oberlin's fair housing ordinance. The Ohio Supreme Court said the right to own property is strengthened, not weakened, by laws which prohibit "discrimination in the disposal of property in such a manner as to interfere with the constitutional rights of others to acquire property."

Employment

Eight more states (Arizona, Iowa, Maine, Maryland, Nebraska, Nevada, New Hampshire and Utah) passed fair employment practices laws, bringing the total of states with such legislation to 32. In Arizona, a state civil rights law endorsed by the Arizona CLU, in some instances went beyond existing federal law in protecting constitutional guarantees. Concerned primarily with liberalizing voting restrictions, eliminating bias

in public accommodations and employment, the measure created a state Civil Rights Commission empowered to mediate disputes, make investigations and enforce the law. The fair employment section bars bias in all businesses employing 20 or more employes (the federal Civil Rights Act applies to firms with 100 or more employes, and which are engaged in interstate commerce), all labor unions and employment agencies. The first state Supreme Court test of the employment section of the Washington state anti-discrimination law was successful, from the plaintiff's point of view. Reversing a modification approved by a lower court, the state Supreme Court ordered Seattle General Hospital to accept a Negro's application and employ her in the dietary department, formerly an all-white department. For the first time the New York State Commission for Human Rights will be able to direct the collection of compensatory damages from a person found guilty of discrimination. The change, the first major revision of the law in 20 years, will strengthen the Commission's effort against racial and religious discrimination in jobs, housing, education and public accommodations.

Public Accommodations

The Department of Health, Education and Welfare, once again flexing the power of the federal purse, moved to enforce the anti-bias provisions of the Civil Rights Act against more than 19,000 hospital and other health facilities receiving U.S. aid. The drive was preceded by a preliminary check on several institutions, including advance warnings of government inspectors. The advance notice of visits was derided by the NAACP Legal Defense and Educational Fund, which said that a hospital in Georgia shifted its Negro patients out of segregated facilities just before the investigator was scheduled to arrive, and shifted them back after he left, presumably satisfied that the hospital was not segregated.

In another crackdown under the Civil Rights Act, the Alabama Department of Pensions and Security, which gets about three-fourths of its $120 million annual budget from the federal government, stood to lose the aid if it did not comply with the nondiscriminatory provisions of the law. Miami opened its hotels and nightclubs to Negroes, but few were responding to the invitation. The main reason, it seems, was economic, not subtle discrimination. The American Library Association went on record in favor of barring from membership any institution that discriminates against library users. It was a significant step beyond a resolution adopted in 1962 which urged members not to discriminate and "if such discrimination now exists bring it to an end as soon as possible."

A total of 35 states now have laws against discrimination in public accommodations. The latest additions to the list: Arizona, Missouri, Nevada and Utah. ACLU affiliates campaigned vigorously for passage of the legislation.

INTERNATIONAL CIVIL LIBERTIES

Although the Union's activities are confined to the United States, it takes part in the efforts at the United Nations to write world law for civil liberties, to which the United States may adhere. For this and general purposes it maintains official relations both with the UN Office of Public Information, and the U.S. Mission to the UN and cooperates with other civic agencies through the Conference Group of National Organizations. So far, despite a considerable body of world law ratified by many nations, the U.S. has not ratified any legal convention for any one of the many rights. The Administration has submitted four such documents to the Senate, three within the last two years, and one, the genocide convention, fifteen years ago. Opposition to American involvement with world law and fear of interference with States' rights make the prospects dim for securing a two-thirds — even a majority — Senate vote. This resistance is more remarkable since States rights are not involved in three treaties whose purposes are undebatable, to outlaw practices akin to slavery, to abolish forced labor and to assure political rights of women.

But the Union and many other agencies will continue to back ratification when a propitious occasion appears. This would presumably follow favorable not now visible action on the so-called Connally amendment to Senate ratification of the International Court of Justice, under which the U.S. reserves the right to control what U.S. cases it will permit the Court to hear. The Union supports repeal, as does the Administration, the American Bar Association and other agencies. The Union joined with thirty-five other national organizations in forming an Ad Hoc Committee on the Human Rights Treaties to aid ratification.

Due to the suspension of business in the General Assembly of the UN in its 1964 session because of the impasse over paying for peace-keeping forces, no progress was made in developing world law. The Union acts at the UN headquarters as an agency accredited for information purposes, and in a consultative capacity as an affiliate of the International League for the Rights of Man. It also maintains contacts with the UN agencies dealing with U.S. colonies on which the U.S. reports to the UN.

Colonial Issues

Virgin Islands

Strong home rule sentiment in these three islands with a population of 30,000, brought about in the fall of 1964 the election of a Constitutional Convention to write a new organic act fixing their relations with the federal government. The convention met for several months and produced a unanimous draft to be submitted to Congress, transferring to the Island government all local executive and legislative powers with the federal government retaining the judicial power. The convention expressed its goal as the greatest possible autonomy and the closest possible association with the U.S. as an "Autonomous Territory." The

draft will be presented to Congress in 1966; it has already been presented to the executive departments.

Puerto Rico

Although Puerto Rico is an autonomous Commonwealth, its status is so unsatisfactory that island politics revolve around the alternatives of statehood, independence and an expanded Commonwealth relation. A joint commission to prepare studies and information on alternatives, both for Congress and the Puerto Rican people, is due to finish its work in early 1966. A vote of the Puerto Rican people will presumably follow. The Union will back in Congress whatever the Puerto Rican voters favor.

As a result of the civil rights studies made several years ago by a Puerto Rican commission, appointed by Gov. Luis Muñoz Marin, a permanent civil rights commission has recently been established by act of the legislature with wide powers of inquiry and recommendation.

Pacific Islands

The legislature of Guam moved to establish closer contacts with the federal government by sending a resident delegate to Washington to deal with departments and Congress. Guam will presumably move also for Congressional authority to elect its own governor. No change or complaint was reported from Samoa, where the constitution drawn up a few years ago is due for revision. The Trust Territory held its first legislative assembly. Other reforms suggested by the United Nations and planned by the U.S. have waited on this first effort at unity.

Occupied Okinawa

This group of islands far south of Japan, due to return to Japan as a prefecture when their need as an American military bastion is over, is the one remaining occupied area under the U.S. Governed by a general as High Commissioner, under an Executive Order, it has presented problems of civil liberties in conflict with narrow concepts of security. With the disinclination of Washington officials to interfere with the field commanders, and with a new High Commissioner under more liberal instructions, the Union has turned to its Japanese and Okinawan counter-parts to take the initiative in reforms. Many improvements are reported, with contacts between Japan and the Ryukus much easier. The Prime Minister visited the islands as evidence of Japan's solicitude for their well-being, and a liaison committee has been set up between the U.S. Ambassador, the Prime Minister's office and the Okinawan authorities. Sentiments for reversion to Japan promptly, or for joint administration, are strong, together with pressure for election of the island's chief executive, to replace his appointment by the High Commissioner from the legislative majority. The natural fears of a people whose islands are a base for American involvement in the Vietnam war have intensified desires both for greater autonomy and closer Japanese ties. The Union continues to aid in maintaining Okinawan rights and liberties.

MEMBERSHIP AND FINANCES

(For The Year Ending December 31, 1964)

The Union experienced major growth during 1964 in membership, contributions, and increased over-all effectiveness. New affiliates were organized in Georgia and Oklahoma, and three additional affiliates graduated to fully-staffed status during the year.

Some 16,800 new members joined the Union during the year, and 9,600 failed to renew their memberships. Thus the net increase in membership of 7,200 brought the figure for all areas where the national organization and its affiliates share in the contributions from members to 68,500 at year's end. In addition, the ACLU of Northern California listed 5,700 members. If we assume that roughly half of the 3,500 members in Northern California who contributed directly to the national organization were also members of the Northern California affiliate, the net membership as of December 31, 1964 was, in round figures, 72,500

This 11% growth in membership was accompanied by a 27% increase in membership contributions, a sign of a growing awareness by ACLU members that a more effective defense of civil liberties requires a higher level of financial commitment. Of the $883,000 contributed by members. $416,000 was retained by the Union's 32 affiliates for their own work and $467,000 was available for national office operations. Miscellaneous national office income (earnings of reserves, income from literature sales, etc.), special contributions for restricted purposes, and grants from special funds augmented the funds available for national operations to a total of $507,400.

However, large-scale increases in national operations described in this Annual Report resulted in total expenses by the national organization of $511,100. Thus an operating *deficit* of $3,700 was incurred during the year.

The average contribution for all members who gave in 1964 was $14.50 (averages in some affiliates who have ambitious programs of civil liberties defense ran much higher. In Southern California, for instance, it was $18!). Since new members join at an average of $8.47, overall averages are reduced through new membership recruitment. In 1964, 60% of the members gave $10 or more, and 12% contributed over $25.

In addition to regular contributions, over $56,000 was added by bequests and gifts to the Vigilance Fund. This Fund made major grants to the Lawyers Constitutional Defense Committee ($7,500) and to our California affiliates to assist in their campaign against Proposition 14 ($25,000). Expenditures from other special funds (see report below) combined with the operating deficit meant that the Union's net worth increased by only $6,000 to $159,000 on December 31, 1964.

The following members gave $200 or more during 1964:

Joseph W. Aidlin, Samuel Abels, Adolph's Ltd., Rowland Allen, Miss Ruth Allen, Steve Allen, Mrs. Fanny H. Arnold, Mr. and Mrs. John P. Axtell, Dr. Catherine L. Bacon, Joseph Ball, Miss Helen Beardsley, John L. Becker, Laird Bell, Dr. Carroll J. Bellis, Charles Benton, Benjamin Berg, Mr. and Mrs. Louis Berke, Dr. Viola W. Bernard, Mr. and Mrs. Edgar Bernhard, Miss Sylvia W. Bigelow, Joseph W. Bingham, Dr. Nelson M. Blachman, George Bodle, Mrs. Elizabeth P. Borish, Mr. and Mrs. T. A. Boswell, Mr. and Mrs. Harry Braverman, Mr. and Mrs. John D. Briscoe, Mr. and Mrs. Robert Brock, Bullitt Foundation, Andrew Burnett, Mr. and Mrs. Carlton Byrne, Henry B. Cabot, Chester F. Carlson, Lamberto Cesari, Sidney Cheresh, Robert Clapp, Miss Fanny T. Cochran, Avern Cohn, Miss Catherine W. Coleman, Edward T. Cone, Mr. and Mrs. Albert S. Coolidge, Mrs. Gardner Cox, Stephen T. Crary, Mrs. Alexander L. Crosby, Mrs. Carl E. Croson, Mr. and Mrs. W. S. Dakin, Maxwell Dane, Mrs. A. M. Dodge, Mr. and Mrs. Sol Dollinger, Robert T. Drake, Charles L. Dunham, Miss Frances W. Dunn, Mr. and Mrs. David Egger, Peter Eilbott, Edward J. Ennis, W. R. Everett, Dr. H. O. Fehling, Dr. and Mrs. John H. Ferger, Henry G. Ferguson, Mr. and Mrs. Jack X. Fields, Mr. and Mrs. Walter D. Fisher, Walter T. Fisher, Mrs. Thomas Fleming, Mrs. Emily F. Flender, Mr. and Mrs. W. Flexner, Mr. and Mrs. Richard W. Foster, Samuel Freeman, Mrs. Stanley Freeman, Miss Lisbeth Freschl, Mrs. Stanton A. Friedberg, Paul Fromm, Albert S. Fulton, Harvy Furgatch, Miss Margaret Gage, William M. Gaines, Mr. and Mrs. Edwin F. Gamble, Mrs. Sidney Gamble, Bernard M. Gelson, Harold G. Gelwicks, Mr. and Mrs. V. S. Gettner, Mr. and Mrs. J. W. Gitt, Lewis Glaser, Seth M. Glickenhaus, Mr. and Mrs. S. L. Gomberg, Miss Elinor M. Goodridge, Herbert G. Graetz, Dr. Robert P. Grant, Dr. Sidney S. Grant, Dr. and Mrs. James Graves, Philip H. Gray, Louis C. Green, Dr. John Grinde, David Grutman, Richard Grumbacher, Jeremiah S. Gutman, Mr. and Mrs. Edward B. Harper, Irving B. Harris, Mr. and Mrs. J. E. Harris, Mr. and Mrs. Gilbert A. Harrison, James H. Haun, Austin Herschel, John Horn, J. M. Huber Corporation, Mrs. Richard W. Ince, International Ladies' Garment Workers Union, Dr. Alvin Isaacson, Mrs. Sophia Y. Jacobs, David B. Jones, Mr. and Mrs. Parry Jones, Sidney D. Josephs, William Jovanovich, Orrin G. Judd, Leon Kaplan, Dr. and Mrs. Benjamin Karpman, Charles Katz, Mrs. Edith N. Kay, Mrs. Robert A. Keller, Robert W. Kenny, Dr. and Mrs. W. S. Kiskadden, Arthur S. Kling, Erwin Klingsberg, Alfred A. Knopf, Mrs. William Korn, Leo Kotin, Stanley Kristoff, Mr. and Mrs. J. B. Kruskal, Jr., Edwin J. Kuh, Jr., Dr. Austin Lamont, Mr. and Mrs. Hayes C. Lamont, Edward A. Lasher, Mrs. Agnes Brown Leach, Marshall S. Leaf, Carter Lee, Mrs. V. S. Littauer, Walter Longstreth, Mrs. Pare Lorentz, Dr. and Mrs. Henry Louria, MacAlester College—Campus Chest Fund, Mr. and Mrs. Patrick M. Malin, Dr. and Mrs. Simson Marcus, Arnold H. Maremont, Mr. and Mrs. Zachary Marks, Kenneth Maytag, Miss Frances B. McAllister, Merle H. Miller, Walter E. Mitchell, Jr., Hunter Morrison, Dr. James M. Mott, Miss Catherine Mudie, William W. Mullins, Mrs. Anna L. Myers, Mr. and Mrs. Rolland O'Hare, Mr. and Mrs. Louis Otten, Dr. Robert W. Palmer, Miss Gertrude Pascal, Dr. Helen Peak, Mrs. Katherine Peake, Oliver P. Pearson, Frank C. Pierson, Playboy Foundation, Mr. and Mrs. Saul Poliak, Alexander Polikoff, Mr. and Mrs. Robert Pollok, Dr. Dallas Pratt, Eliot D. Pratt, George D. Pratt, Jr., Mrs. Jane A. Pratt, Mrs. Jerome Pressman, Mr. and Mrs. Herbert Rackow, Anthony Randall, H. Oliver Rea, Mr. and Mrs. Chester Rick, Mr. and Mrs. J. M. Riley, Dwight Rogers, Miss Charlotte Rosenbaum, Maurice Rosenfield, Mr. and Mrs. Alan Rosenthal, H. A. Ross, Harry Roth, Dr. Harold H. Royaltey, Dr. Kenneth Rubin, Richard Salomon, Mrs. Fay H. Sawyier, Miss Alice Schott, Mr. and Mrs. Leonard Schroeter, William J. Scott, Alexander Scourby, James Seelig, Rod Serling, Dr. Marvin Shapiro, Dr. D. M. Shayne, Mr. and Mrs. William B. Shore, Mrs. Gratia E. Short, Richard M. Shure, Mrs. Sara Simon, George Slaff, Mrs. James Slater, Mr. and Mrs. Lloyd M. Smith, Mr. and Mrs. Allen A. Snook, Mr. and Mrs. Sam Starr, Dr. and Mrs. Charles S. Stein, Mrs. Edward Steiner, Arthur I. Stephens, Allen W. Stokes, Miss Ann R. Stokes, Dr. Robert Stoller, Mr. and Mrs. Robert C. Stover, Mr. and Mrs. James Struthers, Lyle Stuart, Miss Ellen Thayer, Mr. and Mrs. Lee Thomas, Willis Thornton, Miss Anne L. Thorp, John B. Turner, Robert C. Turner, United Automobile Workers International Union, United Automobile Workers, Local #154, United Steelworkers of America, Mr. and Mrs. Frank Untermeyer, Philip Wain, J. Waties Waring, Rowe Weber, Bernard Weingarten, Miss Mary Weiss, Mrs. George West, Mr. and Mrs. James Whitmore, Duane E. Wilder, Mr. and Mrs. D. A. Wilhelmson, Harold Willens, Mrs. Josephine J. Williams, Miss Mary C. Wing, Robert E. Wise, Mr. and Mrs. Jacob Zeitlin, Miss Betty Zukor. Eight anonymous contributions totalling $3,585 were received. The following states listed ten or more of the above contributors: *Southern Calif.*, 66; *New York*, 45; *Illinois*, 24; *Pennsylvania*, 13; *Massachusetts*, 12; *Northern Calif.*, 10.

ROLL OF HONOR

In 1963 the Board of Directors created the Vigilance Fund, described on the back cover of this report, to consist of substantial unrestricted bequests and gifts made in honor or in memory of a named person. The testators and the persons for whom such gifts were made are listed in this Roll of Honor, which also includes gifts to the Endowment Fund. Included in the Roll are gifts received to October 1, 1965.

JANE ADDAMS
EVELYN P. BALDWIN
ROGER N. BALDWIN
JAMES D. BARNETT
HARRY BLAKE
ARNOLD BRIDGES
RICHARD BROOKE
FANNY JAMES BROWN
GRETA ELIZABETH BROWN
MORRIS L. COOKE
DOROTHY DAKIN
MARGARET DESILVER
GEORGE CLIFTON EDWARDS
EDMUND C. EVANS
LOUIS H. FRIEDHOFF
ROSEMUND GLEASON
JOHN HAYNES HOLMES
JULIUS HOLZBERG
B. W. HUEBSCH
JACOB LEVINE
JOHN MANTNER
FRED G. MELCHOR
BLANCHE MEYER
WILLIAM L. MOORE
WILLIAM NORTON
MARIE MCCADDIN PAUTZ
ISAAC POMERANCE
IRVING SCHWARTZ
JOHN B. TURNER
ALEXANDER UFFE
ESTHER UFFE
RUTH VALENTINE
CATHERINE WILSON

Prior to the creation of this special purpose fund, countless others had made gifts to the Union by bequest or in honor or memory of others. Substantial contributions have also been received from donors who wished to remain anonymous. All these gifts have played a vital role in what the Union has since done and become. Though unable to name them all, in the manner in which we here honor those who created, or for whom the Vigilance Fund was created, the Union acknowledges its debt—and that of our cause—to these benefactors.

ACLU FINANCIAL REPORT FOR 1964

(National Organization Exclusive of Affiliates)

INCOME

MEMBERSHIP DUES AND CONTRIBUTIONS	$883,146	
Less affiliates' share	415,980	
National ACLU's share		$467,166
Restricted contributions		
For Southern Regional Office	$ 5,259	
For Emergency Expansion Drive	3,425	8,684
Grants from Special Funds		
From Marshall Fund (for legal expenses)	$ 11,391	
Baldwin Escrow Fund	3,600	
Other	4,443	19,434
Miscellaneous National Organization Receipts		12,105
TOTAL NATIONAL ORGANIZATION INCOME		$507,389

EXPENDITURES — NATIONAL ORGANIZATION

EXECUTIVE AND FUNCTIONAL OPERATIONS		
Legal Operations		
Staff Salaries	$ 19,669	
Cases (briefs, court costs, law library, etc)	26,392	$ 46,061
Education and Action		
Salaries for education and program	$ 40,844	
Annual Report	18,710	
CIVIL LIBERTIES	20,393	
Feature Press Service (weekly bulletin)	6,922	
Pamphlets, reprints, misc.	14,801	101,670
Washington, D.C. Office—legislative services		
Salaries	$ 20,429	
Rent, phone, supplies, etc.	7,449	27,878
Southern Regional Office (3 months)		
Salaries	$ 5,648	
Rent, phone, supplies, etc.	4,957	10,605
Executive Operations		
Salaries	$ 52,900	
Board and Committee Expenses	1,807	
Corporate and affiliate services	3,763	
Biennial Conference	11,019	
General	889	70,378
		$256,592
MEMBERSHIP AND DEVELOPMENT DEPARTMENT		
Field Development Office		
Salaries	$ 10,417	
Travel, maintenance, etc.	8,932	$ 19,349
Membership and Development Operations		
Salaries	$ 71,860	
New membership promotion	68,236	
Renewals, specal appeals	14,127	
Equipment and miscellaneous	9,574	163,797
		$183,146

UN-ALLOCABLE EXPENSES		
Rent, cleaning, repairs, equipment	$ 27,497	
Stationery, office supplies, printing	7,024	
Postage, telephone, telegraph	13,554	
Taxes and insurance	13,177	
Audit	2,750	
Miscellaneous	7,344	$ 71,346
TOTAL NATIONAL ORGANIZATION EXPENSES		$511,084
TOTAL NATIONAL ORGANIZATION INCOME		$507,389
Operating Deficit		$ (3,695)
GENERAL FUND BALANCE		
January 1, 1964 (deficit)	$(10,095)	
Transfer of Emergency Expansion Fund for field development (liquidation of fund)	15,373	$ 5,278
GENERAL FUND BALANCE, December 31, 1964		$ 1,583

SPECIAL FUNDS ACCOUNT

VIGILANCE FUND—Balance, December 31, 1963		$ 51,263
Bequest and gifts received		56,647
		$107,910
To General Fund for pamphlet	$ 605	
To California affiliates for Proposition #14 campaign	25,000	
To Lawyers Constitutional Defense Committee	7,500	(33,105)
Balance December 31, 1964		$ 74,805
ENDOWMENT FUND, balance, 12/31/64 (unchanged from 12/31/63)		$ 48,706
EDMUND C. EVANS FUND, balance, 12/31/63		$ 15,877
Dividends and gain in stock sale		569
		$ 16,446
Grants		
To General Fund for voting rights brief	$ 1,000	
To Lawyers Constitutional Defense Committee	7,500	(8,500)
Balance, December 31, 1964		$ 7,946
ROBERT MARSHALL FUND, balance, 12/31/63		$ 32,208
Interest and Dividends received		1,361
Grants to affiliates for cases	$ 1,099	
Grant to General Fund for cases	11,391	(12,490)
Balance, December 31, 1964		$ 21,079
FUND "B" (AFFILIATE RESERVE)		
Affiliate contributions to Fund in 1964		$ 20,358
Less owed to General Fund on 12/31/63	$ 2,838	
Development grants to affiliates	12,395	(15,233)
Balance, December 31, 1964		$ 5,125
TOTAL BALANCES IN SPECIAL FUNDS, 12/31/64 (Market value of securities held over book values $23,766)		$157,661

BALANCE SHEET AS OF DECEMBER 31, 1964

ASSETS:		
Cash on hand and in banks		$ 11,926
Accounts receivable (affiliates)		15,444
Due from special funds		15,102
Investments and security deposits		9,353
		$ 54,825
Special funds accounts (see above)		157,661
TOTAL ASSETS		$212,486
LIABILITIES AND NET WORTH:		
Liabilities:		
Delayed tansfers to affiliates		$ 15,523
Accrued expenses and sundry payable		11,789
Payroll taxes payable		3,850
Due to Vigilance Fund		12,667
		$ 43,829
Reserve for severance pay		9,413
Total liabilities and reserves		$ 53,242
General fund balance 12/31/64	$ 1,583	
Special Funds Accounts, balances on December 31, 1964 ..	157,661	
NET WORTH, December 31, 1964		$159,244
TOTAL, LIABILITIES AND NET WORTH		$212,486

ROGER N. BALDWIN ESCROW ACCOUNT

FUND BALANCE January 1, 1964		$ 43,599
Income from investments	$ 3,007	
(Loss) on sale of securities	(172)	2,835
Transfer to ACLU for Mr. Baldwin's part time services ..	3,600	
Custodian Fee	150	(3,750)
Balance December 31, 1964		$ 42,683
(Market value of securities held $89,632)		

COSTS OF CASES AND OTHER LITIGATIVE EXPENSES OF THE NATIONAL ORGANIZATION*

Cases under $36	$ 183
H. Aptheker v. *Secretary of State*—Denial of passports to Communist Party members	51
Bass v. *Mississippi*—Jury exclusion	744
Burnside v. *Byars*—Mississippi school prohibition on wearing freedom buttons	255
Calhoon v. *Harvey*—Trade union election practices	213
Codarre v. *People*—Due process in criminal proceedings	464
Colliflower v. *Garland*—Right to fair trial in Indian tribal courts	292
Davis v. *Balckom*—Jury exclusion	102
Dombrowski v. *Pfister*—Louisiana anti-subversive legislation	2,974
Freedman v. *Maryland*—Movie censorship	326
Goldmark libel	94
Gordon v. *Mississippi*—Jury exclusion	1,368
Green v *Louisiana*—Right to resist unlawful arrest	130
Hancock v. *Mississippi*	131
Harper v. *Mississippi*—Jury exclusion	308
Harper v. *Virginia*—Poll tax	688
Hoffa v. *U.S.*—Government interference with lawyer-client relationship	70
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Veterans of the A.L.B.—Communist-front provisions of Internal Security Act	847
Washington Office	230
Worthy—Right to passport	500
Zemel v. *Rusk*—Cuban transit ban	130
Legal work—N.Y. Headquarters	1,974
Law Library	1,219
TOTAL	$26.393

*Full details on these cases will be found elsewhere in this Report. Expenditures cover only out-of-pocket items such as printing of briefs, travel, long-distance phone calls, etc. The Union's cooperating attorneys serve without fee.

The ACLU's financial and accounting methods are endorsed by the National Information Bureau, 205 East 42nd Street, New York 17, N.Y., a private agency organized to help maintain sound standards in philosophy and to provide contributors with information and advice.

Contributions to the American Civil Liberties Union are not deductible for income tax purposes since the Treasury Department has held that a "substantial part" of the Union's activities is directed toward influencing legislation. The ACLU itself pays no taxes other than payroll taxes.

INDEPENDENT AUDITORS' REPORT

We have examined the balance sheet of the American Civil Liberties Union, Inc. (national organization exclusive of affiliates), at December 31, 1964 and the related statement of income and expenditures, special fund accounts and the Roger N. Baldwin Escrow account appearing on pages 104 to 107 for the twelve months then ended.

Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements mentioned above present fairly the financial position of the American Civil Liberties Union, Inc. (national organization exclusive of affiliates) and the Roger N. Baldwin Escrow account as of December 31, 1964 and the results of their respective operations for the twelve months then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

APFEL & ENGLANDER, Certified Public Accountants

TRANSFERS TO INTEGRATED AFFILIATES AND SEPARATE AFFILIATE FINANCIAL INFORMATION (UNAUDITED)

	Affiliate's Net Worth 12/31/64	*Affiliate's Additional Local Income*	*Transfers From Joint Memb. Income*
Arizona	$ 1,327	$ 489	$ 2,162
Southern California	15,507	33,591	100,760
Colorado	653	499	4,061
Connecticut	4,549	271	3,322
Florida	1,106	5,811	3,898
Georgia	782	—	1,318
Illinois	12,683	11,916	31,334
Indiana	364	1,093	6,531
Iowa	1,248	11	2,136
Kentucky	660	164	2,446
Louisiana	839	110	922
Maryland	542	1,853	6,451
Massachusetts	6,477	529	23,689
Michigan	(6,349)	5,553	24,547
Minnesota	4,411	706	8,033
Missouri			
Kansas City	775	351	673
St. Louis	2,390	614	1,863
National Capital Area	4,445	2,162	12,724
New Jersey	358	—	7,000
New Mexico	—	—	676
New York City	17,851	17,266	65,960
Up-State New York	977	10	6,137
Ohio	469	962	12,846
Oklahoma	197	—	346
Oregon	433	340	2,285
Pennsylvania-Delaware	—	584	34,135
Rhode Island	1,066	264	1,201
Texas	2,534	721	3,905
Utah	861	559	547
Washington	1,376	1,336	22,594
Wisconsin	4,788	200	3,238
To Fund "B" Reserve	—	—	18,240
TOTAL TRANSFERS			$415,980

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**Resigned June, 1965 to become U.S. Ambassador to Luxemburg.*
***Resigned October, 1965 because of moving out of state.*
****Resigned December, 1965 to accept appointment as Corporation Counsel of the City of New York.*

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* *Affiliate executive head—person to correspond with.*

** *Indicates a full-time office is maintained.*

*** *Indicates a part-time office is maintained.*

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(In states and territories where the Union does not have organized affiliates, these correspondents assist the ACLU by securing information and giving advice on local matters. They do not represent the Union officially.)

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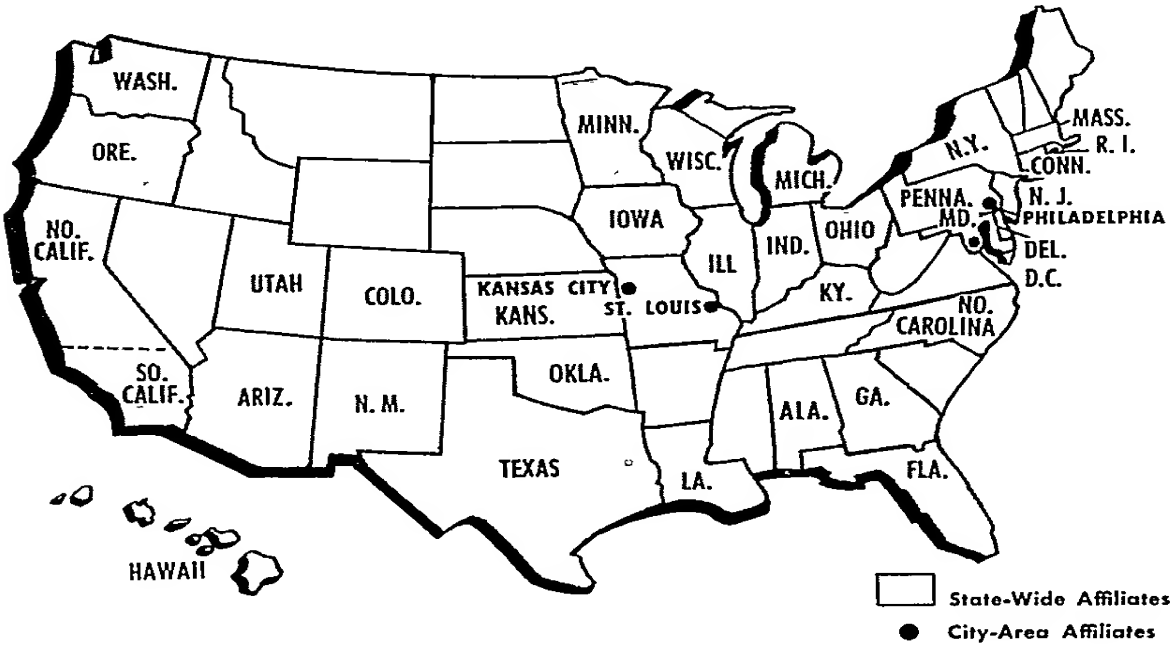

By joining the national ACLU, you will join the affiliate in your area. (Except in Northern California where separate membership is maintained. However, the national ACLU also welcomes support from members in Northern California.)

Membership includes the ACLU's authoritative Annual Report, *Civil Liberties* ten times a year, and your choice of ACLU pamphlets. Students members at $3 receive *Civil Liberties* and the Annual Report. The ACLU needs and welcomes the support of all those — and only those — whose devotion to civil liberties is not qualified by adherence to Communist, Fascist, KKK, or other totalitarian doctrine.

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☐ $ 100 and up — Participating Member

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Please enroll me as a NEW MEMBER of the ACLU. Here is my $..... membership contribution, 50¢ of which is for a one-year subscription to *Civil Liberties.*

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THE ACLU VIGILANCE FUND

The Vigilance Fund is comprised of all unrestricted bequests to the national organization and major gifts to the ACLU made in memory or in honor of a named person.

The principal of the Vigilance Fund is invested and the income used for the substantive work of the Union, assuring more effective protection and projection of our civil liberties.

Portions of the Vigilance Fund itself may be used from time to time for special projects of overriding national importance. Such projects may include:

1. Organizing a prompt and effective response to any civil liberties crisis of national proportions for which current budgeted funds prove inadequate.
2. Financing a major educational campaign on a specific civil liberties issue of extraordinary national significance.
3. Developing civil liberties activities in areas where no ACLU organization exists and strengthening affiliate organizations in areas of special need.

Such use will be made, however, only for projects recommended by the National Development Council, a body elected by representatives of the Union's affiliates and by the National Board, and approved formally by the National Board.

With like authorization the fund may be employed to finance capital requirements and the accommodation of fluctuations in the income and expenses of the Union or any of its affiliates, but amounts so used are required to be restored to the Vigilance Fund out of operating income.

The Endowment Fund is maintained for donors who prefer to add to the permanent funds of the Union. It is invested in income-producing property for the benefit of national operations. Unless otherwise specified, the Board of Directors has the authority to make temporary use of the Endowment Fund as security for short-term borrowing to accommodate seasonal fluctuations in income.

Each year the Union pays tribute to the individual testators and persons in whose memory or honor gifts aggregating $500 or more were received by listing them in its Annual Report.

BEQUESTS TO THE ACLU

During the past fifteen years the American Civil Liberties Union has received by bequest over $500,000 from the estates of more than eighty persons. The legacies have ranged from $20 to $145,000.

The Union regards such gifts with special pride and special obligation, because they represent the legator's final dedication to the preservation of civil liberties in our democracy.

Those desiring to make such provision in their wills may use this language: "I give $..... to the American Civil Liberties Union, Inc., a New York Corporation." Bequests thus given will be added to the capital funds of the national organization and of the ACLU affiliate in the area of the testator's residence, on the basis of a sharing formula which has been developed to make most effective use of the testator's gift.

Should the testator wish to make his own provision for the portion of his gift which is to be used for local purposes, there should be added to the foregoing, "of which $..... shall be applied to the use of its ..... affiliate."

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JUNE 10, 1966

MR. J. EDGAR HOOVER
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WASHINGTON, D. C.

DEAR MR. HOOVER:

IS IT ALL RIGHT TO CORRESPOND WITH YOUR DEPARTMENT AND ASK QUESTIONS?

I HAVE ENCLOSED AN ENGLISH PAPER MARKED ON PAGE 5.

WILL YOU PLEASE TELL ME ALL THAT YOU CAN REGARDING THE ACLU - AMERICAN CIVIL LIBERTIES UNION.

THANKS IN ADVANCE.

SINCERELY YOURS,

[redacted]

b6
b7C

RFM: JH
ENCLS.

P.S. - PLEASE RETURN THE ENCLOSED PAPER - returned, copy retained, HAA

REC- 51 61-190-1152

15 JUN 16 1966

"ENCLOSURE ATTACHED"

ack 6-17-66 Byn: RW JML
ENCLOSURE

CORRESPONDENCE

PROGRESS IN PRECISION SINCE 1924

By Private Subscription Only N.S. 736, June 3rd, 1966

THE WEEKLY REVIEW

A summary of political and economic intelligence for business men and advanced students of world affairs

Edited by :
John de Courcy

RUSSIA'S MIDDLE EAST MOVES

THIS SERVICE can see the Kremlin aiming to build up and sustain a growing threat south of Saudi Arabia, south of the Persian Gulf, and (just look at the map) opposite eastern Africa. It remains to be seen when the first attempt will be embarked upon to close the southern entrance to the Red Sea, of which the northern end is already in the hands of Nasser's Egypt.

There are optimists and/or people who have not yet grasped the pattern of Russia's moves by proxy and otherwise in that part of the world and who do not believe that Nasser would necessarily exploit the British withdrawal from Aden in 1968. They will learn; and one can only hope that enlightenment will not take too long.

In the meantime, Marshal Amer of Egypt let the cat out of the bag the other day when he disclosed what Cairo has never officially admitted up to now, namely, that Egypt would not leave southern Arabia to the Saudis after the departure of the British.

Speaking to Egyptian officers after Kosygin's visit, the Marshal said: "*Our presence in the Yemen is necessary in support of the liberation movement on the entire Arabian peninsula*". Egypt, he said, was the "landmark of the independence policy of the area" and the "protective guardian of every progressive revolution, as in the Yemen, so in Aden and in the southern protectorate".

Here we see Egypt acting as a proxy for the Kremlin. Apart from arms for the Yemen, free of charge, Russia has now a mission of military instructors in that country, and, as we have also told our readers, there is good reason to believe that Moscow is subsidising heavily and possibly financing entirely the Egyptian "presence" in the Yemen and Egypt's needs in fuel and equipment. The Kremlin's generosity is not because of love for Nasser or the Yemeni republicans.

UGANDA: ANOTHER AFRICAN TRAGEDY

ANOTHER of the Iain Macleod-Duncan Sandys creations in Africa has now tragically fallen apart in violence and bloodshed. It is not yet possible to predict what the ultimate fate of Uganda, and, more specifically, Buganda and its King, the Kabaka, will be. However, there is no longer any doubt that the Kabaka (Sir Frederick Edward Mutesa) and his one-and-a-half million loyal subjects, the Baganda,[1] have become the victims of an almost classic double-cross of which Britain was one of the main perpetrators.

Three smaller kingdoms in Uganda —Toro, Ankole, and Bunyoro—will share the same fate as Buganda; but as

[1] Buganda is the name of the territory. Its inhabitants are the Baganda.

the fury of the so-called Federal Government, in the person of the usurper-President, Milton Apollo Obote, is now concentrated against Buganda, enough of the story can be told by dealing only with the Kabaka and his people.

Before going into the background, let it be said that the developments in Uganda should surprise nobody.[1] And, in Britain, in particular, it should be remembered that the Kabaka and his people did not clamour for independence, for the very reason that they feared what has now in fact happened.

Prophetic Words

Shortly before independence, one of the Kabaka's closest associates, explaining the fears to our Special Correspondent on African Affairs, used prophetic words. "*The Kabaka*", he said, "*does not regard independence as an end in itself. Independence is meaningless unless it benefits a country.*

"*Premature independence is dangerous, and until the problems of Uganda are solved the country will not be ready for independence. What good will independence be if it lands us in a civil war?*"

But Mr. Macleod and Mr. Sandys knew better. Their hero was Milton Apollo Obote, who, in effect, assured them that the Kabaka was being silly. To our Correspondent, Obote said at the time:

"*Of course, there would be no problem if the Kings, and specifically the Kabaka, could only learn to trust us. It is not only the Kabaka personally. We are distrusted by nearly the whole of the Baganda people, who look down upon the non-Bantu.*

"*A simple solution would be for us to give the Kabaka definite guarantees that we will not interfere with his powers. I've offered such guarantees, but the Kabaka just doesn't trust me. But we would keep our promises. We would leave the Kings in peace if they behaved themselves and gave no trouble*".

Britain Knew the Risk

Our Correspondent writes: "I would like to give one more prophetic quotation. On the eve of independence I spoke to the man who had for fifteen years been the Kabaka's Finance Minister and who was then the Mayor of Kampala, the Federal capital. His name was Mr. Sam Kulubya, and he told me:

" '*There is no cooperation in Uganda. The tribal differences are too deep. The Bantu, the Nilotics and the rest all have a totally different outlook. Superimposed on those differences you now have a political party system as well.*

" '*The party system is new to Africa and something alien. Few parties can claim to have a policy. The result is a mere struggle for power among the leaders. But in Buganda the political leaders mean nothing, whereas the Kabaka means everything to his people*'.

"From these quotations it must be clear that the British Government which thrust independence upon Buganda and incorporated it into the Federal Uganda knew precisely what risk it was taking".

The formula it devised, with the assistance of Obote, permitted the Kabaka to remain nominally King of Buganda and at the same time to become the nominal President of Uganda, with Obote as Prime Minister. (The Kabaka wanted an altogether looser form of association which would have left Buganda uncontaminated.)

At Obote's Mercy

In February of this year, Obote tore up the constitution containing these provisions, and proclaimed himself President with dictatorial powers over the whole country, including the kingdoms. The Kabaka and his loyal Baganda were overnight made a subject people, at the mercy of Obote's whims.

As was to be foreseen by anybody who knows Uganda, the Baganda rallied to the support of their King—and yet another bitter tragedy had started in Africa. The violence and bloodshed began during the last week of May. When and how it will end cannot be forseeen, except that for the Kabaka and his people this appears to be more or less the end of the road.

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[1] They were, in fact, very clearly forecast by this Service. See *Intelligence Digest* of July, 1960, January, 1961, and April, 1966.

Betrayal and Double-Crossing

Just another typical African story? In so far as it is a story of betrayals and double-crossing—yes. But there is one important difference. The Kabaka is not just another little African chieftain surrounded by primitive tribesmen.

An attractive, enlightened, and well-educated man in his early forties who holds a commission in one of Britain's Guards regiments (the Grenadier Guards), Sir Frederick Edward Mutesa's dynasty goes back at least three centuries of unbroken rule, and probably much longer. His people are among the most enlightened in the whole of Africa, and they are hard-working and prosperous — and, politically, moderate.

Moreover, Sir Frederick's rule over Buganda was not despotic. It was, in fact, as ideally democratic as can be found anywhere. His people had their own elected, and effective, Parliament, the Lukiko, with a Government of Ministers. The Kabaka had tremendous power, but he used it discreetly and indirectly.

Ruthless Disregard of Obligations

His country's links with Britain went back as far as 1884. In that year, the then Kabaka (Sir Frederick's grandfather) concluded a private treaty with Queen Victoria under which Queen Victoria and her successors were to guarantee the constitutional rights of the Kabaka and his successors. It recognised the Kabaka's status as King, with all the rights and privileges that go with it.

Ever since then, the people of Buganda had placed absolute faith in Britain, until the 1950s when Britain discovered the so-called wind of change in Africa and ruthlessly disregarded her obligations under the treaty.

However, in 1884 Buganda was a coherent, well-governed kingdom with a united people (who have remained united to this day). The people are Bantu. To the north and east of Buganda lived some Nilotic and Nilo-Hamitic tribes which had come from the Sudan and Ethiopia. They had their own local chiefs, but they were essentially primitive tribal groups living a nomadic existence and avoiding contact with Buganda. To the west were the other three kingdoms mentioned earlier, now also incorporated in Uganda.

Specific Recognition

In 1894, with the Kabaka's consent, Buganda was proclaimed a British protectorate, with the Kabaka yet again specifically recognised as King, and the future of the throne guaranteed by Britain. Later, in this century, British administration was established over the nomadic tribes in the geographical area now known as Uganda (of which Buganda occupies about one-third), but Buganda remained a self-governing entity on her own, and a nation on her own, and by far the most prosperous region in the whole territory.

The tribes surrounding Buganda, mainly the Nilotics and Nilo-Hamitics, eventually threw forth political leaders, but Buganda went along her own way, the people content and unaffected by the so-called wind of change. That is, until Britain decided that the wind of change is a good thing, and that Africa must have political leaders and so-called party rule.

Browbeating the Kabaka

Britain and the Nilotic and Nilo-Hamitic politicians in the area then also decided that Uganda ought to be a country, and that Buganda must be part of that country. Then followed the "struggle for liberation", which consisted mainly of Britain on the one hand and the Nilotic and Nilo-Hamitic politicians (of whom Obote is one) on the other, browbeating the Kabaka and his people to place themselves under a central government (albeit with "guarantees"). The betrayal on Britain's part is, unfortunately, not unprecedented.

Then, two years ago, came "independence"—and now the aftermath.

In the circumstances, one more quotation is justified. On the eve of independence, the then Minister of Justice of Buganda told our Correspondent: "*You must remember that it was our Kabaka of the day who first allowed Britain to establish a protectorate over Buganda, subject to certain guaran-*

tees. If Britain now wants to hand over, she has no right to hand Buganda over to anybody else but the legitimate ruler, the present Kabaka, the descendant of the Kabaka with whom the original agreement was made".

Mr. Macleod and Mr. Sandys and Milton Apollo Obote did not share this view.

Doing the Communist Job

There are a few comments that should be made while the tragedy of Uganda is unfolding. In spite of the shabby treatment the Kabaka and his people have had, and are continuing to have, they have remained, if not pro-British, pro-western. Through the Kabaka's tremendous prestige among his own people, Buganda is the one area of Uganda where Communism has gained no foothold and where Russian and Chinese influence has remained practically nil.

It has therefore become very much in the interests of Communism, as manifested by both Moscow and Peking, that Buganda should be destroyed as a nation and that the Kabaka should be broken. Obote, regardless of what other motives he may have, is now doing the job excellently for the Russians and the Chinese.

Neither the Kabaka nor his people are African "nationalists" in what is now the accepted sense of the word. They are not anti-white and have never asked for the removal of the white man from Africa. They believe in genuine economic development and do not rant about "neo-colonialism".

A New Revolutionary Centre

Obote can thus rely upon the full cooperation of the extremist elements in, for example, the Organisation of African Unity in carrying out his task. Therefore, although the Kabaka will look in vain for possible friends in the West (the lack of response to his pathetic appeal to U Thant, drawing the attention of the United Nations to Obote's flouting of the constitution, is evidence of this), Obote, in his revolutionary zeal, will inevitably be drawn deeper into the extremist camp. This will further tip the scales in East Africa to the disadvantage of the West.

In fact, Uganda is now likely to become a new centre for revolution adjoining the Congo (Leopoldville), Rwanda, the southern Sudan, Kenya, and Tanzania. For this to become possible, it is necessary completely to destroy the Kabaka's remaining influence.

MOSCOW FINDS NEW AFRICAN CULPRITS

MOSCOW HAS discovered a new serious threat to peace in Africa. This time, it is not Dr. Verwoerd who wants to drop nuclear bombs all over Africa; nor is it Mr. Ian Smith threatening to invade Zambia, Tanzania, and so on.

The culprits this time are five West African countries which were formerly part of French West Africa—Ivory Coast, Upper Volta, Niger, Dahomey, and Togo. They are all minute by African, or any other, standards.

According to Moscow, they are guilty of violating the one cardinal principle so far scrupulously observed by all independent African states—non-interference in the affairs of other African countries.

Specifically, according to both Moscow Radio and *Pravda*, these five small countries are intimidating Guinea and have started a most dangerous campaign against her which could disrupt the peace throughout Africa and perhaps the world.

A Thin Pretext

"*A pretext for the campaign against Guinea*", according to *Pravda*, "*is the fact that the people and Government of this republic sharply denounced the military coup in Ghana and called upon the peoples of all African countries to increase their vigilance and resistance in face of the threat of neo-colonialist restoration*".

But the pretext is said to be thin. The "truth" is that the Governments of the five countries have sold out to the imperialists, "*who are, above all, worried about the aspirations for freedom and independence of the people of the*

Germany, whose engineering industries contribute respectively 34·8 per cent and 34·4 per cent to their GNP. The figure for Russia's engineering industry is 34·1 per cent, and those for the other Comecon members are: Hungary, 27·5 per cent; Poland, 25·9 per cent; Rumania, 23·2 per cent; and Bulgaria, 18·6 per cent. (No figure is given for Mongolia, Comecon's stepchild.)

More revealing even is the fact that among Comecon countries Russia's engineering industry comes second from bottom in the contribution it makes to exports. Only 21 per cent of all Russian exports are engineering products, whereas the figures for the others are: East Germany, 47·4 per cent; Czechoslovakia, 47 per cent; Hungary, 33·9 per cent; Poland, 33·4 per cent; Bulgaria, 24·6 per cent; and Rumania, 18·2 per cent.

Nothing Settled

According to Vinter's report the Moscow conference ended with the question of future cooperation suspended in mid air. In his words, "the conference did not settle anything forthwith. Nevertheless, it helped a lot by the very fact that most specialists there agreed to the abandonment of recommendations for specialisation and cooperation at governmental level. They further agreed that if agreements are to be effective and permanent they must yield clear economic advantages to the participants".

In future, he suggested, individual industries will seek their own bilateral agreements with corresponding industries in other Comecon countries. But how and to what extent this will be allowed by the political planners Vinter did not explain. By implication, however, Comecon is now in a worse muddle than before.

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Republic of Guinea, people who do not want their country to be a raw material appendage and a reserve of cheap labour for the United States and west European Powers".

The imperialists have apparently decided that Guinea must be destroyed, and they are using the Ivory Coast, Upper Volta, Niger, Dahomey, and Togo to provoke the inoffensive and peace-loving country which has given asylum to Nkrumah.

The only reason *Pravda* can find for this immoral decision by the imperialists is that "*the people of Guinea freely chose the road of non-capitalist development and political and economic co-operation with the progressive states of Africa and the whole world. Guinea, like Mali, is an eyesore for the imperialists, who would like the whole of West Africa to remain a highly profitable site for capitalist investment*".

A Warning from "Pravda"

On instructions from the imperialists, the Ivory Coast, it is alleged, has gone so far as to concentrate forces along the frontier with Guinea; but *Pravda* has warned the Ivory Coast: "*No one is allowed to interfere in the domestic affairs of sovereign, independent countries on the African continent. Attempts to intimidate people who have embarked upon the road of freedom to make them turn back the wheel of history are doomed to failure*".

Besides, Moscow Radio has added, Guinea is not without friends, and the sabre-rattlers on Guinea's frontiers and in "some other countries of West Africa" will pay dearly for their provocation.

What neither *Pravda* nor Moscow Radio has thought worth mentioning is that Sekou Touré, Guinea's President, has announced the mobilisation of a special force to invade Ghana, first overrunning the Ivory Coast and overthrowing her Government, in order to restore the deposed Nkrumah.

Nor has either mentioned that Conakry Radio has called for the assassination of the Ivory Coast President and for an armed revolution in that country. The Ivory Coast's troop movements took place after these threats were made, as a defensive measure.

AMERICA: THE RACIAL TROUBLES

OUR WASHINGTON Correspondent writes:

The racial situation is deteriorating not only in Watts, Los Angeles, but throughout America. In Oakland, Chicago, St. Louis, Washington, D.C., Baltimore, Cleveland, Philadelphia, Baltimore, New York, Newark, and possibly thirty other locations, racial outbursts have been forecast for this summer.

Communist-infiltrated race agitation organisations have increased in size. The NAACP now numbers 500,000 members. CORE has reached the 85,000 mark. The ACLU, specialising in anti-police legal work, has increased its membership by 30,000 since August, 1963, and now numbers 80,000 members. The Black Muslims have reproduced propaganda direct from Guozi Shudian, The Red Chinese propaganda centre in Peking.

A host of small black nationalist movements have sprung up across America since the death of Malcolm X. *Muhammad Speaks*, a Black Muslim official publication, states: "*The biggest cities of America will have a population with a black majority and the struggle for political dominance by the urban Negro may become the most crucial and bloodiest conflict in the nation's history*". Various organisations, including the Communist Party, are now working to make this come true.

Russia Interested

Viewing this situation with great interest is the Soviet defence Ministry. Writing in the February, 1966, issue of the *Soviet Military Review*, Lt. Col. A. Sapronov stated:

"*The American Negroes refuse to be submissive victims of racial*

NAACP: National Association for the Advancement of Coloured Peoples.
CORE: Congress of Racial Equality.
ACLU: American Civil Liberties Union.

persecution any longer. Their struggle has assumed an unprecedented scale. The Negro people do not want to wait passively for the time when equality and human rights are granted to them . . . the massacre of the Negroes by the police and National Guard in Los Angeles in summer, 1965, stirred up the whole of the 20 million Negro people of the United States. And although the field was left to the enemy, this clash has cemented the resolve of the Negroes to fight for their rights . . .".

The Communist manipulators plan to contest the field again in summer, 1966.

AN ODD STORY FROM CHINA

IS THE PEKING régime in domestic trouble? Many well-informed students of developments in China are pondering this question. It is prompted by a sudden campaign, of an intensity unprecedented even in China, virtually to deify Mao Tse-tung.

The entire party and Government, from Chou En-lai down, are suddenly going to absurd extremes to ram Mao Tse-tung down the throats of the people. Are they in fact running for shelter, hoping to find it under his broad shoulders?

All good Chinese Communists have known for years that Mao Tse-tung is the true and only successor to both Marx and Lenin, and that he is the custodian of all revolutionary purity. All that had become a truism; but the party had never before gone to the length of attributing super-human qualities to him. Yet the new—and seemingly unnecessary—campaign is doing just that.

Thus, we now find the case of, for instance, a production leader in Canton who overcame all his fatigue and hunger by simply contemplating Mao's words at the end of every working day. He needed no other sustenance than the spiritual strength contained in his leader's words.

"Miracles"

There have been miracles, too. During the recent earthquakes in the Hopei Province, many victims saved their lives by merely looking at Mao's words painted on walls and trees. Many who were injured and taken to field hospitals, but who would nevertheless have died, survived simply by reading his works while in the hospitals. These things have been stated as facts by the *People's Daily*, the party's newspaper.

According to the same newspaper, a restaurant owner in Peking was able to improve the quality of the food he served and to reduce costs simply by concentrating on Mao's words whenever he had a free moment.

Official party pronouncements now claim that the correct contemplation of Mao's teachings can heal injuries and illness. It can also make harvests grow bigger and better, because he is "the sun for the growth of all vegetation". He can make rice boil faster, and when workers contemplate his words the accident rate drops to next to nothing; and so on.

Need for a Father-figure

His will and his words in fact transcend all material factors in all spheres of human activity, the party has now decided, and this message is imparted at all levels of party activity. Why has this become necessary?

A possible indication that the sudden need for a super-human father-figure to shelter the party is dictated by the expectation of domestic set-backs is contained by a new piece of dogma which has come hand-in-hand with the deification campaign.

This, startlingly, is that it is wrong for a Communist country to "put economics first". It is even wrong to put "specialists" first when any job needs doing. This, according to the *People's Daily*, is precisely where the "Khrushchevites" have erred so grievously. The correct way is always and everywhere to put "politics first".

For instance, according to this new addition to dogma, it is better to have an intricate task done by a man whose specialist knowledge is inferior, but

whose political knowledge is perfect, than by a specialist who is an inferior politician. Moreover, it is wrong to think in terms of material incentives, it is added.

Even in "physical culture", politics must henceforth come first.

The unanswered question remains: Why the sudden need for all this?

COMECON IN DIFFICULTIES

ALL PLANS to create a "balanced, integrated and rational" economy in the Soviet bloc have been scrapped. The decision to do so was reached at a special Comecon meeting on "specialisation and cooperation" which was held in Moscow recently, it has now been revealed in Prague.

The disclosure has been made by Jan Vinter, who led the Czechslovak delegation to the conference. He has admitted frankly that the reason for the sweeping decision was that the delegates had agreed that all attempts to coordinate the economy of Comecon countries had so far produced "unsatisfactory" results.[1]

The plan, under which each of the Soviet bloc countries would have been allotted a sphere of industry in which she could develop her economy, had been severely criticised by economists. They claimed, in effect, that it would have meant that backward countries would become even more backward while the more industrialised countries would develop at the expense of their poorer neighbours.

A New Line of Attack

The criticism by economists had, however, made no impression on the political planners, who wanted to force the plan through by 1970. But the project has now foundered in the face of a new line of attack which, according to our East European Correspondent, appears to have been carefully planned in advance by some East European delegates.

This attack was based on the assertion that not a single Comecon plan had been successfully carried out in the eighteen years of its history.

The main reason for the consistent failures has been that each member country simply ignored the aspects of any plan that did not suit her, and a contributory cause has been that the planners have worked in a vacuum, guided only by theory, and each plan has always been based on a wrong assumption that the previous plan had been successfully completed. There has been no link between reality and fancy.

Frightening Possibilities

These arguments were forcefully driven home at the special conference in Moscow, and it was suggested that the only way in which the proposed integration could be achieved would be to give the planners arbitrary powers to enforce decisions. But this suggestion had frightening possibilities. For one thing, it could lead to the compulsory dismantling of whole industries in some countries, where "unplanned and unauthorised" industrialisation had taken place in an effort to win greater economic independence. This was a prospect which nobody would face.

This having been established, the Moscow conference became the first Comecon meeting to deal with reality, in so far as it agreed to forget about plans and simply to look at the state of industrialisation within the Soviet bloc as it is rather than what the planners and theorists think it is.

Unrevealed Developments

It soon became clear that all members had for years been developing their industries outside the scope of Comecon, and without previously revealing the fact. It was established that two of the countries today, in fact, have engineering industries which, proportionately in relation to their gross national product (GNP), exceed that of the Soviet Union.

They are Czechoslovakia and East

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[1] For details of the last plan to establish a "balanced and integrated" economy see "Comecon Plans" in *The Weekly Review* of October 29, 1965.

REC-51 61-190-1152

June 15, 1966

[redacted]

b6
b7C

Moore Special Tool Company, Inc.
800 Union Avenue
Bridgeport, Connecticut 06607

Dear Mr. [redacted]

I have received your letter and enclosure of June 10th.

In response to your inquiry, information in our files must be maintained as confidential pursuant to regulations of the Department of Justice. I am sure you will understand the reason for this policy and why I am not in a position to furnish the data you desire.

As you requested, the enclosure is being returned to you.

ED 27
JUN 15 1966
COMM-FBI

Sincerely yours,

J. Edgar Hoover

Enclosure

NOTE: Bufiles contain no derogatory information regarding [redacted] Enclosure forwarded was the "Weekly Review." This publication is known to the Bureau and is edited by John de Courcy who reportedly espouses a right wing attitude. His reference was to an article captioned "America: The Racial Troubles" in which the American Civil Liberties Union, according to the article, has increased its membership to 80,000 members. The American Civil Liberties Union is well known to the Bureau.

BGH:par (3)

Tolson
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JUN 15 4 06 PM '66

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI
ATTN: CRIME RECORDS DIVISION

DATE: 6/15/66

FROM : SAC, BUFFALO (100-2406)

SUBJECT: AMERICAN CIVIL LIBERTIES UNION

Enclosed herewith are two Xerox copies of a newspaper article which appeared in the "Toronto Globe and Mail", a daily newspaper published at Toronto, Ontario, Canada, on 6/6/66, relative to actions being taken on the part of the Canadian Civil Liberties Association.

It is noted that the latter association is comparable to the American Civil Liberties Union. The unusual nature of the publication suggested the advisability of bringing this matter to the attention of the Bureau. It is felt that if more organizations such as the American Civil Liberties Union would take a similar stand relative to the support of our law enforcement agencies, it would be very helpful to the police agencies in the United States.

ENCLOSURE

(2) - Bureau (Encs. 2)
1 - Buffalo

GAL:dkz
(3)

REC- 43 61-190-1153

10 JUN 20 1966

CRIME RECORDS SECTION

421724

104

51 JUN 27 1966

5010-108-01

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FD-350 (Rev. 7-16-63)

(Mount Clipping in Space Below)

Yorkville teen-agers handed pamphlet telling them how to keep out of trouble

A pamphlet aimed at keeping Yorkville teen-agers out of jail for vagrancy was distributed in the village yesterday by the Canadian Civil Liberties Association.

The pamphlet advised the teen-agers to avoid, in encounters with police, "the momentary satisfaction of a smart-aleck answer (which) may result in many difficulties that politeness could avoid."

Sidney Linden, lawyer for the association, said about 200 copies of the pamphlet were prepared.

"If we find they (teen-agers) are definitely going to start following the advice and being cordial to the police, more can be printed," Mr. Linden said.

He said the pamphlet is part of an overall campaign to lessen tension between police and village regulars which erupted into a near-riot a week ago.

The pamphlet tells the teen-agers how to avoid being charged with vagrancy.

"Your objective should be not to beat the vagrancy charge once you have spent a night in jail, but to avoid being charged and going to jail in the first place," the pamphlet said.

The teen-agers should identify themselves when the police ask. If they have a job, they should tell the police about it when they are first questioned. If they don't have a job, they can decline to answer.

"If you do not have a job but have refused to answer any questions on this point, the Crown will find it difficult to prove that you do not have a job."

The pamphlet defines what the Criminal Code means when it speaks of being found wandering abroad or trespassing.

"In plain English, you should be going somewhere with some destination in mind and not just wandering about.

"If you are asked by an officer to give an account of yourself under the vagrancy section, you MUST give an account."

Throughout the pamphlet, the teen-agers are advised to be as polite as possible in all their dealings with the police.

"With the present rather strained and troubled situation in the Yorkville area, it is recommended that you co-operate with and assist the police in the sometimes difficult job of keeping order."

(Indicate page, name of newspaper, city and state.)

3

GLOBE AND MAIL, Toronto, Canada

Date: 6/6/66

Edition:

Author:

Editor:

Title: CIVIL LIBERTIES IN TEEN-AGERS

Character:

or

Classification: 100-

Submitting Office: Buffalo

☐ Being Investigated

421725

AMERICAN CIVIL LIBERTIES UNION

FEATURE PRESS SERVICE

156 FIFTH AVENUE, NEW YORK, N. Y. 10010

BULLETIN #2269

June 13, 1966

ACLU HITS PSYCHOLOGICAL TESTS FOR FEDERAL AVIATION EMPLOYEES

The American Civil Liberties Union warned on May 16 that the psychological testing program of the Federal Aviation Agency seriously threatens the right of privacy of government employees and called for a discontinuance of the program.

In a letter to John W. Macy, Jr., chairman of the U.S. Civil Service Commission, the Union's executive director, John de J. Pemberton, Jr., said that the series of questions in the FAA "Sixteen Personality Factor Test" concerning the political, racial and religious opinions or associations of 20,000 air traffic controllers "raises serious First Amendment problems because it permits the government to intrude into the private beliefs, not of a few selected government workers, but of an exceedingly large number of government employees."

Pemberton noted that "if properly controlled," psychological testing "might be a useful way of checking on the reliability of government employees in certain job categories," but he cautioned: "The fear of 'Big Brotherism' abounds as government, because of pressing societal needs, assumes more and more obligations toward the citizen, and to fulfill its responsibilities must rely on mechanized methods for carrying out the government's business. But despite the practical need, we submit the government should never forget that the practice of the democratic process is also its business, and that respect for such a fundamental freedom as personal privacy is an integral part of that process."

The use of psychological testing in a wide variety of government agencies has provoked investigations by special House and Senate subcommittees probing invasions of privacy. Last year when the House subcommittee held hearings on the testing question, Rep. Cornelius Gallagher, chairman of the subcommittee, raised strong objections to the FAA test, and Macy responded that he was ordering the discontinuance of the test. But on April 1, 1966 Macy, in a letter to Rep. Gallagher, turned around and defended the use of the test, adding that under revised instructions the air controllers would not have to answer certain questions on personal belief.

The ACLU letter pointed out that the courts have frequently set down "strong strictures" against government inquiry into private beliefs in various areas, adding, "we fail to see how these protections can be denied individuals where psychological testing is utilized." The Union asked the Civil Service Commission: "Are we to say that psychologists and their tests possess either greater wisdom or assume a higher level of importance than others in our society against whom constitutional restrictions have been imposed, when the need for information has been urged?"

REC-52 67-110-1154

Meeting the argument of psychological testers that tests "are not designed to search out the individual's answers to specific questions but are aimed at determining his psychological attitudes," the ACLU asserted that regardless of the government's avowal of disinterest in his answers, "the individual concerned...feels his privacy is being invaded when he is compelled by his government to disclose his beliefs and innermost thoughts."

16 JUN 21 1966

The Union stated that "apart from the grave constitutional question, it is "concerned about the inhibitory impact that such questions have on the government worker in his future political association and activity." The ACLU commented that "even though ~~the worker~~ is promised that his anonymity will be preserved by the coding of the replies and even their eventual destruction, the very fact that government asks the questions may quite understandably cause him to refrain from joining organizations or voicing his views on political and other controversial issues. It is the fear of government compulsion which causes the harm."

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56 JUN 30 1966

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FOR FURTHER INFORMATION CONTACT ALAN REITMAN, ASSOCIATE DIRECTOR, 156 Fifth Ave., N.Y.C., N Y. 10010 — OR 5-5990

Pemberton noted that in an April 1 letter to Rep. Gallagher, Macy had stated that the is revising its instructions to the air traffic controllers to make it clear that they don't ve to answer certain questions on personal belief in the test. But, said the Union spokesman, you failed to discuss either what would happen to the controllers who absolutely refuse to take the test at all, or the penalties incurred for refusing to answer some of the questions."

The ACLU letter urged the government to "return to the basic criterion of judging an individual on the basis of his individual merit, as demonstrated by his competency on the job. Observation of a government employee under working conditions, including pressure situations, or a personal examination by a psychologist in demonstrably necessary instances," said the ACLU, "are more realistic ways of determining the ability and reliability of an employee for the job than a written test presented on a mass basis which is open to interpretation removed from on-the-job study."

STATE MISCEGENATION LAWS CHALLENGED

In 16 states marriages between Negroes and whites is a criminal act, drawing penalties as harsh as ten years imprisonment. Although challenges have been mounted in the past attacking the discrimination perpetuated by these statutes, the United States Supreme Court has so far skirted this socially sensitive issue. But the way is now open for a new high court test of miscegenation laws.

The American Civil Liberties Union and its affiliated National Capital Area Civil Liberties Union have filed a notice of appeal from a March 7 decision of the Virginia Supreme Court upholding that state's 265-year-old statute barring interracial marriage. The appeal is being made to the U.S. Supreme Court on behalf of Richard Loving, a 31-year-old white construction worker and his part-Indian, part-Negro wife, Mildred. The Lovings were arrested in Caroline County, Virginia, five weeks after their marriage in June, 1958 in Washington, and were convicted of violating the Virginia law which states: "If any white person and colored person shall go out of this state for the purpose of being married and with the intention of returning ... they shall be punished -- by confinement in the penitentiary for not less than one nor more than five years." (The law was passed in 1691 to prevent "spurious issue.") One-year prison terms were suspended for the Lovings on condition that they both leave Virginia "at once and do not return together or at the same time ... for a period of 25 years." The couple lived in Washington for a few years, but in 1963 they decided to fight the conviction and the sentence of banishment from their home state.

Writing the unanimous opinion of the Virginia Supreme Court in the Loving case, Justice Harry L. Carrico said that the U.S. Supreme Court's 1954 school desegregation ruling did not affect state laws against intermarriage. The Virginia high court has upheld the state's miscegenation law many times over the years. Most recently, in a 1955 case raising the question of the validity of a marriage between a Chinese sailor and a Virginia white woman, the court emphasized the state's legislative purpose "to preserve the racial integrity of its citizens" and to prevent the creation of "a mongrel breed of citizens."

In defending the Lovings in the state court, ACLU cooperating attorneys David Carliner and Bernard S. Cohen asserted that "the real issue in this controversy is the basic issue of segregation. For certainly the thought of intermarriage is the most odious aspect of integration to those who would perpetuate the badges and bonds of slavery. Yet," continued the Union, "it is the same power structure that decries governmental interference with individual rights that now so arbitrarily interferes with this most personal right of marriage."

The Union noted that "this interference is a denial of equal protection of the laws in that it is based on race alone. It is a further denial of equal protection in that it individually denies to 'white persons' and 'colored persons' rights afforded to each other. It is moreover a denial of equal protection to the classes of 'white persons' and 'colored persons' in that the former is more restricted as to which classes they may marry while there is no effort to give the latter class the same protections intended for the former, 'white persons.'"

The Union further charged that miscegenation laws "deny Negroes the due process of the laws in that they unreasonably take from them fundamental, federally protected rights. They are capricious, unreasonable, arbitrary, without any valid legislative purpose." In addition, charged the ACLU attorneys, "the sentence imposed on the Lovings is unconstitutional as constituting a banishment. Such punishment is not within the statutory purposes of the Virginia Code ... on

sentencing and is both cruel and unusual. As a direct and proximate result of these statutes children of mixed marriages live with the stigma of bastardy."

The Civil Liberties Union gave friend-of-the-court support last winter to the challenge of another miscegenation law in Oklahoma. In that case, the Oklahoma Supreme Court avoided the challenge, claiming race to be an irrelevant issue since the defendants had not complied with the health and age requirements for a marriage license. The Court said, in effect, that Oklahoma's miscegenation law would be regarded as constitutional until declared otherwise by the United States Supreme Court. Plans to appeal the case of Frances Aline Jones, Negro, and Jesse Marquez, white, to the U.S. Supreme Court were frustrated when Marquez married someone else.

The Oklahoma law provides that "the marriage of any person of African descent ... to any person not of African descent ... shall be unlawful...." Miss Jones and Mr. Marquez had alleged that their marriage license application was denied solely because of this law.

The Union's brief in this case relied heavily on the 1964 U.S. Supreme Court decision in the McLaughlin v. Florida co-habitation case, which "reaffirmed the idea that race alone could not be made the basis of punitive statutes." In support of its argument that marriage is an inalienable right, the Union cited the cases of Meyer v. Nebraska and Skinner v. Oklahoma, in which the U.S. Supreme Court expressed the view that marriage is a fundamental right of the individual and is protected by the Fourteenth Amendment.

The Oklahoma Supreme Court decision avoided the constitutional questions raised by the ACLU, stating that one "of the most firmly established doctrines in the field of constitutional law is to the effect that a court will pass upon the constitutionality of a law only when necessary to the determination upon the merits of the cause under consideration." The Court based its ruling on another Oklahoma statute, providing for "parental consent for the marriage of minors, the premarital examination for syphillis, and the discretionary power of the County Judge to order a waiver of these requirements." Miss Jones was 22, but Mr. Marquez, being 19, was required to have parental consent, which his parents refused to give. Further, Marquez did not have the premarital physical examination. Although these requirements can, under Oklahoma law, be lifted by a judge "when the unmarried female is pregnant, or has given birth to an illegitimate child" (the couple has two illegitimate children, and Miss Jones is carrying a third.) the waiver is applicable only if the two parties are at least 25 years old.

ILLINOIS GOVERNOR VETOES PROPOSED "STOP AND FRISK" LEGISLATION

Civil libertarians achieved a significant victory in Illinois in April when Governor Otto Kerner vetoed the proposed "stop and frisk" law, expressing "grave doubts as to the constitutionality" of many of the bill's provisions. The governor's message covered many of the issues raised by the Illinois Division, ACLU which had declared that "H.B. 1078 authorizes seizures of the person in violation of the Fourth and Fourteenth Amendments to the U.S. Constitution and in violation of par. 6, Article II of the Illinois Constitution."

The bill, as defined by the governor's message, "would permit a police officer to stop any person in a public place whom the officer reasonably suspects is committing, has committed, or is about to commit a felony or a violation of certain narcotic laws, and to demand the name and address of such person and an explanation of his actions. It would also permit the officer to search such person for dangerous weapons if he reasonably suspects that he is in danger of attack."

The governor acknowledged that, at first glance, the bill "would seem to be highly desirable legislation to assist law enforcement officers in prevention of crime and the apprehension of criminals," but he pointed out that "(a) statute which is vague or fails to specify the mode or manner by which persons should act pursuant to it is unconstitutional." Furthermore, the fact that "the Act seeks to establish a standard of reasonable suspicion that a crime is about to be committed ... is a radical departure from the constitutionally permissible standard of 'probable cause' or 'reasonable grounds to believe that the person is committing or has committed an offense.'"

Touching on the possibility that H.B. 1078 would authorize, "on its face, a public detention of unlimited duration and allow the physical restraint of the person apprehended for an unlimited period of time," the Illinois ACLU had questioned "whether a whole series of procedures designed to protect persons apprehended and detained under formal arrest would be available to individuals detained under H.B. 1078."

In his examination of the same provision, Governor Kerner also found that "(d)etention under this Bill involves the same element of physical restraint incident to a formal arrest, but apparently without the statutory procedures applicable to arrest which are designed to protect the individual from abuses, both physical and psychological, during the period of questioning." He further stated that "such a detention of the person (is) an 'unreasonable ... seizure' within the meaning of the Fourth Amendment to the United States Constitution and Article II, Section 6, of the Illinois Constitution, and a deprivation of liberty without due process of law, in violation of the Fourteenth Amendment to the United States Constitution."

Authorization of a search of the detained person when the police officer "reasonably suspects that he is in danger of attack" also came under fire from the governor. He pointed out that the authorization of a physical examination of a detained person constitutes a search which is governed by the limitations of the federal and state constitutions. In addition to noting this same point, the ACLU had stated that such searches would contravene the Fourth and Fourteenth Amendments to the Constitution.

The governor concluded his veto message by declaring: "The traditional rule that searches, however limited their objectives, could be authorized only by proper warrant has been relaxed only where the search is incident to a valid arrest ... (and) (t)o extend the right to search during a temporary detention for questioning, based only on the officer's suspicion that the person is about to commit certain defined crimes and a suspicion by the officer that he is in danger of attack, is, in my opinion, an unreasonable search and therefore a contravention of the above cited provisions of the Federal and Illinois Constitutions."

The New York Civil Liberties Union is also continuing its vigorous opposition to that state's "stop and frisk" law by filing a friend of the court brief with the New York State Court of Appeals to declare the law unconstitutional. The law, adopted by the New York State Legislature in 1964, relaxes the standards for arrest and search by permitting detention, search and even the use of force against a suspect on lesser grounds than the probable cause required by the Fourth Amendment to the United States Constitution. In its brief, the NYCLU states that "the possibilities for abuse of individual rights under the 'stop and frisk' law cannot be overestimated."

CIVIL LIBERTIES BRIEFS

THE ACLU'S WASHINGTON, D.C. OFFICE succeeded in opening the way for John O'Brien to apply for San Francisco Post Office employment. Mr. O'Brien had been barred from post office employment because he was wearing a peace button or pin at the time he applied for the job, and he was told that the post office couldn't hire anyone with his principles. After Lawrence Speiser, director of the Union's Washington office, talked with Assistant Postmaster General Tyler Abell, the matter was cleared up, and Mr. O'Brien was invited to apply for employment. (2.25.66) ***

AMERICAN CIVIL LIBERTIES UNION
FEATURE PRESS SERVICE
156 FIFTH AVENUE, NEW YORK, N.Y. 10010

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Mr. C. D. DeLoach, Asst. Dir.
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Washington 25, D. C.

ORG WC

421723

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. Wick

DATE: 6-9-66

FROM : M. A. Jones

SUBJECT: JOHN DE J. PEMBERTON, JR.
EXECUTIVE DIRECTOR
AMERICAN CIVIL LIBERTIES UNION (ACLU)

BACKGROUND: 1564 5th Ave. New York

By letter of 6-1-66, captioned individual forwards a copy of the 45th Annual Report of the ACLU and notes that he will be pleased to receive any comments that the Director may wish to make on this Report.

INFORMATION IN BUFILES:

We had previously received a copy of this Report which was analyzed in my memorandum to you dated 5-13-66, captioned "American Civil Liberties Union," a copy of which is attached. Briefly, four references to the FBI appear in this Report, two of which criticize our civil rights investigations. The other two references to the FBI are incidental and not critical.

Pemberton is known to the Bureau for his communications to the Attorney General and the Director, criticizing our efforts in the field of civil rights. In February, 1964, the Director instructed that we were to have no further dealings with Pemberton because of a letter Pemberton sent the Attorney General, criticizing the FBI's alleged pre-trial publicity in the Frank Sinatra kidnaping case. In view of this, we have refused to acknowledge various correspondence from Mr. Pemberton.

RECOMMENDATION:

That the letter dated 6-1-66, from Mr. Pemberton, forwarding the 45th Annual Report of the ACLU, not be acknowledged.

ENCLOSURE

Enclosure

1 - Mr. DeLoach
1 - Mr. Wick
1 - Mr. Gale
1 - Mr. Rosen
1 - Mr. Sullivan
1 - Mr. Morrell

ST-112 REC-42 61-190-11155

"ENCLOSURE ATTACHED"

17 JUN 22 1966

JCF:jmh (9)

5 JUN 15 1966

421709

CRIME RESEARCH

Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Wick
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

FOUNDED 1920/INCORPORATED

aclu

AMERICAN CIVIL LIBERTIES UNION

156 FIFTH AVENUE / NEW YORK / NEW YORK 10010 / ORegon 5-5990

June 1, 1966

J. Edgar Hoover
Federal Bureau of Investigation
Department of Justice
Washington, D. C.

Dear Sir:

The American Civil Liberties Union has just published its 45th Annual Report, and I am happy to enclose a copy with this letter. The report describes the activity of the American Civil Liberties Union and its 36 affiliates from June 30, 1964 to July 1, 1965 (with pertinent cases updated) and reflects the major civil liberties events of that period.

Certainly the key measure of the vitality and strength of our democratic system is its scrupulous regard and respect for the liberty of the individual. In times of international tension and crisis this test of the democratic society understandably is under severe strain, and imposes a special responsibility on public officials and citizens alike to protect these intrinsic elements of freedom. We hope that our report, by highlighting the progress achieved and the setbacks suffered by the Bill of Rights, will help to point the way to improved observance of these rights and thus to expand the frontiers of freedom.

We would be pleased to receive any comments that you wish to make on our report.

Sincerely yours,

John de J. Pemberton, Jr.
Executive Director

JdeJP:gk

1 - ENCLOSURE

REC-42 61-190-1156

54 JUL 13 1966

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16 JUN 8 1966

EX-112

CORRESPONDENCE

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Director, FBI

DATE: 7/7/66

FROM : SAC, Detroit (100-10657)

SUBJECT: AMERICAN CIVIL LIBERTIES UNION
(OF MICHIGAN)
MISCELLANEOUS -
INFORMATION CONCERNING

Enclosed herewith is a Xerox copy of a letter which had been received by the Flint, Michigan, Resident Agency from the Greater Flint Chapter of the American Civil Liberties Union (ACLU).

For information concerning the demonstration in question, it is noted that Detroit by airtel 5/16/66 under the caption "VIDEM", Bufile 105-138315, DEfile 105-11827, furnished the pertinent information concerning this demonstration.

It is noted that the information concerning the demonstration was furnished primarily by a member of the Flint, Michigan, Police Department. Also, photographs of this demonstration were taken by a member of the "Flint Journal". According to the Flint Resident Agent, the "Flint Journal" also had a reporter covering the demonstration. In addition, it is believed the Michigan State Police may have observed this demonstration. One Bureau Agent was in the vicinity for part of the demonstration, however, no photos or interviews were conducted by the Bureau Agent.

Chairman Greater Flint Chapter of Subject Organization

With reference to the Flint Chapter of the ACLU, Detroit files contain no references thereto. Further, our files contain no identifiable references to F. C. RICHARDSON the author of the enclosed letter.

Mich.

With reference to the officers listed on the letterhead of the ACLU of Michigan, no identifiable subversive references are located in Detroit files with the exception of the Executive Director ERNEST MAZEY, who is a Detroit Security Index subject.

This office has answered Mr. RICHARDSON's letter calling attention to the fact that we are unable to furnish him any information due to the confidential nature of Bureau records. The above is furnished to the Bureau for its information.

ENCLOSURE 61-190-1157

421704

2 - Bureau (Encl. 1) (RM)
2 - Detroit (1 - 105-11827)

REC 68 EX-104

3 JUL 12 1966

IRA/cc
(4)

50 JUL 20 1966

INT. SEC.

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AMERICAN CIVIL LIBERTIES UNION

of Michigan

GREATER FLINT CHAPTER

Mailing Address: 2128 WINDEMERE AVENUE • FLINT, MICHIGAN 48503 • Telephone CE 4-0654

University of Michigan Flint College
1321 East Court Street
Flint, Michigan 48503

July 1, 1966

Federal Bureau of Investigation
600 Church Street
Flint, Michigan

Dear Sirs:

It has been reported to the Flint Chapter of the A.C.L.U. that at the May 14th demonstration staged at the Flint College of the University of Michigan against the Selective Service student deferment test, members of your staff were present taking pictures and collecting information — name and occupation — concerning those participating in the demonstration.

The American Civil Liberties Union is aware of the responsibility of all law enforcement agencies in the maintenance of order and the protection of the public — whether demonstrators or observers — from acts of violence. It is, at the same time, aware that honest efforts made to meet such responsibilities may at times result in measures that directly or indirectly encroach seriously on the constitutional right of the individual to free expression. It is in view of the latter possibility that the A.C.L.U. of Flint requests your cooperation in its review of the role of your staff in the recent demonstration as well as in a discussion of the general policy of your office in regard to demonstrations of this kind.

It would be of great help to the Board in its discussion of this matter if the following information could be made available to it. Were there men assigned by your office to be present at the demonstration, May 14? Were they instructed to take pictures of the demonstrators? Did they take pictures? Were they instructed to acquire the names of demonstrators? Were names acquired and, if so, in what manner? Was the University of Michigan through any of its staff, asked to assist in the acquiring of pictures of the demonstrators or asked to assist in any way in the acquiring of information about the demonstrators? If so, in what manner and with what results?

61-190-1157

421705

ENCLOSURE

Is it the policy of your agency to maintain files on participants in demonstrations of this sort and if so, what is the general nature of such files and what use is made of them?

I would very much appreciate your giving this request for information your immediate consideration.

Sincerely yours,

F. C. Richardson, Chairman
Greater Flint Chapter
A.C.L.U.

FCR/mj

421706

FD-36 (Rev. 5-22-64)

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FBI

Date: JUN 24 1966

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI (61-1538)

FROM: SAC, PHILADELPHIA (100-9882)

SUBJECT: COMINFIL
WILPF

Compel 244808
DECLASSIFIED BY SP8 By alm
ON 12/28/84

Enclosed herewith for the Bureau are eight copies of a LHM captioned as above. Copies are also being furnished to interested offices as noted. OSI, NISO, INTC, Secret Service, and USA, EDPA., are being furnished copies locally. (U)

8- Bureau
6- 61-1538
1- 100- (ACLU)
1- 100-441164 (DCA)
3- Atlanta
1- (SCLC)
1- (SNCC)
1- (REV. JAMES BEVEL)
2- Chicago
1- (ROBERT HADIRGHURST)
1- (JOSEPH SITTLER)
2- Milwaukee
1- (NCCEWV)
1- [redacted]
1- Newark (DAVID DELLINGER)
4- New Haven
1- [redacted]
1- (WILLIAM SLOANE COFFIN)
1- [redacted]
1- (WILPF)

b6
b7C

61-190-
NOT RECORDED
141 JUN 27 1966

(See page 1a)

1 ENCLOSURE

[redacted] CONFIDENTIAL COPY

actually never Classified in error 9/6/77

Classified by [redacted]

421713

6 JUL 7 1966

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

61-190-765

PH 100-9882

6- New York
1- (WSP)
1- (WRL)
1- (SDS)
1- [redacted]
1- (NORMAN THOMAS)
1- (RALPH DE GIA)
2- San Francisco
1- (DCA)
1- [redacted]
2- Washington Field
1- (DONNA ALLEN)
1- (DAGMAR WILSON)
4- Philadelphia
1- 100-9882 (WILPF)
1- 100-1086 (ACLU)
1- 100-47373 (DCA)
1- [redacted]

b6
b7C
b7D

WSB/hn
(34)

[redacted]

[redacted] b7D

Source utilized in LHM is [redacted] who furnished information to SA WILLIAM S. BETTS. (U)

[redacted] on 6/8/66 advised that [redacted], mentioned in the LHM, was a member of the National Board of WILPF and was listed as follows: (U)

[redacted] b6 b7C (U)

LEAD

NEW HAVEN

AT NEW HAVEN, CONN.

Will check indices on [redacted] and furnish Philadelphia and New York with a characterization of this individual if pertinent. (U)

b6
b7C

[redacted]

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

Philadelphia, Pennsylvania

In Reply, Please Refer to File No.

JUN 22 1966

WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM (WILPF)

On May 25, 1966, PH T-1 furnished Women's International League for Peace and Freedom (WILPF) Branch Packet #6 dated May 12, 1966, which contained items for attention and other information for the WILPF branches. One item was a memo to Branch Chairman and Human Rights Chairman from [redacted], National Committee on Civil Liberties, dated May 19, 1966, which sets out information concerning WILPF support of the W.E.B. DU BOIS Clubs of America (DCA). A copy of this item follows. (V)

b6
b7C

A characterization of the DCA is attached. (V)

No effort is being made by Philadelphia to further identify the national figures mentioned in the WILPF memo. (V)

[redacted]

CONFIDENTIAL

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/19/79 BY 5180 PCB/cal
SP8 Bty/alm 12/28/79
Comp. # 244808

61-190-

ENCLOSURE

Women's Int'l League for Peace & Freedom, 2006 Walnut St., Philadelphia, Pa. 19103

TO: BRANCH Chairmen, [redacted] Human Rights Chairmen
FROM: [redacted] Nat'l Committee on Civil Liberties

The W.E.B.DuBois Clubs situation today involves so many of our basic constitutional liberties that this Committee feels it important to bring to the Branches this report of the latest developments: (U)

The DuBois Clubs are active mainly on college campuses, and have stated their program to be advocacy of racial freedom, an end to economic inequalities, and an end to the Vietnam war. The Clubs, which envision a socialist form of society, were established in 1964 and named after W.E.B.DuBois, the late Negro scholar and historian. (U)

On March 4, 1966, Attorney General Katzenbach filed a petition with the Subversive Activities Control Board as the first step in seeking to have the Clubs registered as a "Communist-front" group under the 1950 Subversive Activities Control Act (SACA). (U)

On April 26, 1966, a complaint was filed by the American Civil Liberties Union in the U.S. District Court, Washington, D.C. on behalf of a number of prominent Americans concerned about SACA and its impact on First Amendment rights. Among the complainants are the following: [redacted] of the DuBois Clubs; Donna Allen (WILPF) and Dagmar Wilson, Women's Strike for Peace; Rev. James Bevel, Southern Christian Leadership Conference; Rev. Wm. Sloane Coffin, Chaplain, Yale University; David Dellinger, editor, Liberation magazine; Ralph DeGia, War Resisters League; Prof. Robt. Havighurst, professor of Education and Human Development, University of Chicago; [redacted] Prof. of [redacted] Yale University; [redacted] Students for a Democratic Society; Rev. Jos. Sittler, Chicago; [redacted] and [redacted] Student Non-Violent Coordinating Committee; Norman Thomas; [redacted] National Committee to End the War in Vietnam. (U) b6 b7C

The complaint calls the pending action against the Clubs a peril to constitutional liberties, and seeks the voiding of the "Communist-front" provisions of the 1950 Act (SACA). It is alleged in the complaint that Attorney General Katzenbach publicly stated that "his expectation of ultimate success in the threatened enforcement of the Act...against the DuBois Clubs is very slight but that the real purpose of the threatened enforcement is to discourage young Americans from joining...the Clubs." (U)

The following allegations of the complaint are therefore of particular importance: the "purpose and effect of (the Attorney General's action) is to harass, intimidate, threaten and deter (the Clubs) from exercising rights, privileges and immunities secured to them as citizens of the United States by the Constitution and laws of the United States, by frightening and discouraging (them) and the classes they represent as well as other Americans similarly situated from joining, supporting, assisting or defending the DuBois Clubs in any manner whatsoever, or otherwise exercising their fundamental right of American citizens to dissent from the stated policies, foreign or domestic, of their Government." (U)

The "Communist-front" provisions of the SACA are, it is alleged by the complainants, violative of the U.S. Constitution in seven (7) respects: (U)

418293

1) violate the 1st Amendment guarantee of freedom of speech, press, assembly, association and the right of citizens to petition their government for redress of grievances;
2) the provisions are "overly broad and vague" creating a "chilling effect" upon the exercise of 1st Amendment rights;

421717

3) violate the Fifth Amendment due process guarantee "in that they are vague and indefinite and fail to meet the requirement of certainty in statutes containing criminal sanctions";
4) violate the Fifth Amendment privilege against self-incrimination;
5) and 6) violate the Eighth and First Amendments in the provisions which in effect "impose cruel and unusual punishment for thought, speech, writing, petition and assembly;"
7) violate the constitutional prohibitions against ex post facto legislation and are bills of attainder. (U)

The complaint alleges that the threat of administrative proceedings to force the Clubs to register with the Subversive Activities Control Board has resulted in "immediate and irreparable injury to fundamental constitutional rights guaranteed" to the Clubs, and points to the "substantial loss and impairment of freedom of expression" both to the Clubs and to "countless hundreds of thousands of other Americans who will be deterred from exercising these rights". The complaint alleges that "this creates a threat...to the fundamental interests of the Nation since free expression ...is of transcendent value to all society...and not merely to those exercising their rights". (U)

The complaint adds that "hundreds of thousands of citizens will be deterred, frightened and intimidated from joining other social, political, cultural, economic or other organizations which hold or advocate some or all of the positions and views" held by the Clubs. In its concluding allegation, the complaint states that "the threatened enforcement of these void, illegal and unconstitutional provisions (of the SACA)...unless restrained...will result in a serious and substantial, clear, present and imminent threat to the national interest and security in that the resultant chilling effect upon the fundamental right of American citizens to dissent from the policies of the present Administration in pursuing the war in Vietnam through the exercise of First Amendment liberties, will have a grave effect upon their fundamental right to participate in the decisional processes which affect the destinies of the Nation." (U)

The Committee on Civil Liberties urges all Branches to hold study and discussion meetings, and public meetings, on the subject matter of the foregoing complaint. The WILPF on many occasions finds itself impelled, out of its basic commitments to peace and freedom, to dissent from policy of our government. Our right to dissent is in peril if the action of the Attorney General against the DuBois Clubs succeeds. Indeed, the action of the Attorney General constitutes a threat to those civil liberties which are the chief distinguishing features of a democracy, and which alone set us apart from totalitarianism. (U)

Reports of other developments in a number of Civil Liberties areas which are of concern to WILPF: (U)

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(1)

[redacted]

[redacted]

W. E. B. DU BOIS CLUBS OF AMERICA (DCA)

A source has advised that on October 26-27, 1963, a conference of members of the Communist Party (CP), including national functionaries, met in Chicago, Illinois, for the purpose of setting in motion forces for the establishment of a new national Marxist-oriented youth organization which would hunt for the most peaceful transition to socialism. These delegates were told that it would be reasonable to assume that the young socialists attracted into this new organization would eventually pass into the CP itself. (V)

A second source has advised that the founding convention for the new youth organization was held from June 19-21, 1964, at 150 Golden Gate Avenue, San Francisco, California, at which time the name W. E. B. DuBois Clubs of America (DCA) was adopted. Approximately 500 delegates from throughout the United States attended this convention. The aims of this organization, as set forth in the preamble to the constitution, are, "It is our belief that this nation can best solve its problems in an atmosphere of peaceful coexistence, complete disarmament and true freedom for all peoples of the world, and that these solutions will be reached mainly through the united efforts of all democratic elements in our country, composed essentially of the working people allied in the unity of Negroes and other minorities with whites. We further fully recognize that the greatest threat to American democracy comes from the racist and right wing forces in coalition with the most reactionary sections of the economic power structure, using the tool of anti-Communism to divide and destroy the unified struggle of the working people." (V)

Over the Labor Day weekend, 1965, the DCA held a conference in Chicago, Illinois, and a new slate of officers was elected to the National Executive Committee (NEC) of the DCA. Since Labor Day, 1965, identities of those serving on the NEC has varied; however, according to a third source as of May, 1966, thirteen of the fifteen members of the NEC were members of the CP in the San Francisco Bay area. (V)

As of May, 1966, the headquarters of the DCA was located at 1830 Fell Street, San Francisco, California. (V)

418295

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[redacted]

REC- 31 1-58

July 26, 1966

[redacted]
San Ysidro, California 92073

b6
b7C

JUL 26 11 23 AM '66
RECD-READING ROOM
FBI

Dear Mr. [redacted]

I have received your letter of July 18th.

In response to your inquiry, information contained in our files must be maintained as confidential in accordance with regulations of the Department of Justice. I am sure you will understand the reason for this policy.

Sincerely yours,

J. Edgar Hoover

MAILED 4
JUL 26 1966
COMM-FBI

NOTE: Prior outgoing dated 11/3/64 to correspondent who is not otherwise identifiable in Bufiles. The American Civil Liberties Union is well known to the Bureau.

BGH:ejm
(3)

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Mohr
Wick
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Callahan
Conrad
Felt
Gale
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Sullivan
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Trotter
Tele. Room
Holmes
Gandy

61 AUG 2 1966

MAIL ROOM ☐ TELETYPE UNIT ☐

[redacted]

San Ysidro, (92073)
Calif.
July 18th, 1966.

Fedral Bureau of investigation,
Dear Sir;-

b6
b7C

I am writeing in regard to the American Civil Liberty Union and it's affiliations.

I have heard them over the radio, and about them over the radio, but in every case where I have heard of them being involved they have without exceptions been on the side of the crimnal, or left wing elements.

Would you inform me if it is known that they are a known communist left wing orgination;?" I believe they are.

Thank you for a reply,

Yours truely,

[redacted]

REC- 57 61-192-1158

JUL 27 1966

CORRESPONDENCE

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

No Duplication Fees are charged for Deleted Page Information Sheet(s).

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